

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2013 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

Closing Date: January 24, 2013

TRANSCRIPT OF PROCEEDINGS

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*I, Natalie E. Tennant, Secretary of State of the
State of West Virginia, hereby certify that*

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13A OF THE WEST
VIRGINIA CODE, AND CHAPTER 16, ARTICLE 13A OF THE 2012
SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE
RECORDS OF THIS OFFICE.



*Given under my hand and the
Great Seal of the State of
West Virginia on
January 22, 2013*

Natalie E. Tennant
Secretary of State

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section

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- 16-13A-1a. Jurisdiction of the public service commission.
- 16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
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- 16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the Secretary of State.
- 16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
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§ 16-13A-1. Legislative findings

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been

unable to obtain public utility services. To further this effort, and to insure that all areas of the state are benefiting from the availability of public service district utility services and to further correct areas with health hazards, the Legislature concludes that it is in the best interest of the public to implement better management of public service district resources by expanding the ability and the authority of the public service commission to assist public service districts by offering advice and assistance in operational, financial and regulatory affairs.

In addition to the expanded powers which shall be given to the public service commission, the Legislature also concludes that it is in the best interest of the public for each county commission to review current technology available and consider consolidating existing public service districts where it is feasible and will not result in the interference with existing bond instruments. Further, if such consolidation is not feasible, the Legislature finds that it is in the best interest of the public for each county commission to review current technology available and consider consolidating or centralizing the management of public service districts within its county or multi-county area to achieve efficiency of operations. The Legislature also finds that additional guidelines should be imposed on the creation of new public service districts and that county commissions shall dissolve inactive public service districts as hereinafter provided. The Legislature also finds that the public service commission shall promulgate rules and regulations to effectuate the expanded powers given to the commission relating to public service districts.

Acts 1953, c. 147; Acts 1980, c. 60; Acts 1986, c. 81.

Cross References

County courts, authority to make grants for water and sewer systems, see § 7-1-37.

Administrative Code References

Sewer utilities regulations, see W. Va. Code St. R. § 150-5-1 et seq.

Library References

Counties 18.
C.J.S. Counties § 314.
Municipal Corporations 5, 6.
C.J.S. Municipal Corporations § 111.
Public Utilities 145.
C.J.S. Public Utilities §§ 26 to 32; 159 to 167, 169 to 171, 177 to 178.
Westlaw Topic Nos. 104, 268, 317A.

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Validity 1

1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6,

§ 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes Ⓒ 123(3); Statutes Ⓒ 123(5).

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953, c. 147; U.S.C.A. Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law Ⓒ 4056; Municipal Corporations Ⓒ 4.

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A. Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law Ⓒ 4416; Municipal Corporations Ⓒ 408(1).

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law Ⓒ 2355; Municipal Corporations Ⓒ 4.

2. In general

A public service district may be created for the purpose of furnishing water or sewer services, or both water and sewer services. Code, 16-13A-1. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations Ⓒ 5.

Creation and operation of water or sanitary districts or authorities by issuance of revenue bonds payable from revenues are authorized. Code, 16-13A-1 et seq. State ex rel. Appalachian Power Co. v. Gainer, 1965, 143 S.E.2d 351, 149 W.Va. 740. Health Ⓒ 369; Waters And Water Courses Ⓒ 183.5.

A county court may use Federal Revenue Sharing Funds for ordinary and necessary maintenance and operating expenses for sewage disposal, sanitation, and pollution abatement, and ordinary and necessary capital expenditures authorized by law but may not use such funds for matching purposes under any other federal-aid program. 55 W.Va. Op. Atty. Gen. 116 (June 27, 1973) 1973 WL 159152.

3. Construction and application

A public service district is a public corporation and does not come within constitutional

provision which in substance provides that all corporations shall be created by general laws and which is applicable to private corporations. Acts 1953, c. 147, § 1 et seq.; Const. art. 11, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes Ⓒ 80(3).

4. Eminent domain powers

Where notice, hearing and order with respect to creation of public service district considered only the question of furnishing water, such district was created only for the purposes of furnishing water services, and had no power to condemn real estate for sewerage facilities. Code, 16-13A-1, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Eminent Domain Ⓒ 32.

Condemnation by public service district is not a taking of private property for private use in violation of applicable constitutional provision. Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Eminent Domain Ⓒ 13.

5. Property of public service district

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation Ⓒ 2289.

6. Rates and charges for service

Relief under Federal Securities Act of 1933 was not adequate or sufficient remedy for relief sought by corporations holding sewer revenue bonds of public service district in mandamus proceeding to compel district to establish and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariff reflecting such charges with Public Service Commission, and any relief afforded under provisions of federal statute could not supersede relief which could be granted in mandamus proceeding. Securities Act of 1933, § 1 et seq., 15 U.S.C.A. § 77a et seq.; Code, 16-13A-1 et seq. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus Ⓒ 3(8).

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operation-

§ 16-13A-1

Note 6

al and maintenance expenses; to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16-13A-1 et seq.; 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇨ 110

It was ministerial duty of chairman of public service board of public service district to sign revenue bonds and to assist in effectuating their issuance, and in view of constitutionality of statute authorizing creation of the public service board, relator's showing of legal right to require performance of such duty, was sufficient and writ of mandamus would issue. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⇨ 103

7. Creation and enforcement of liens

Public service district's failure to docket notice of lien prior to date purchaser recorded deed of trust prevented district from enforcing sewer lien against purchaser. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Municipal Corporations ⇨ 712(7)

Public service district liens must be docketed to be enforceable against purchaser of property for valuable consideration, without notice. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Gas ⇨ 14.6; Municipal Corporations ⇨ 712(7); Waters And Water Courses ⇨ 203(14)

§ 16-13A-1a. Jurisdiction of the public service commission

The jurisdiction of the public service commission relating to public service districts shall be expanded to include the following powers and such powers shall be in addition to all other powers of the public service commission set forth in this code:

(a) To study, modify, approve, deny or amend the plans created under section one-b of this article for consolidation or merger of public service districts and their facilities, personnel or administration;

(b) To petition the appropriate circuit court for the removal of a public service district board member or members; and

(c) To create by general order a separate division within the public service commission to provide assistance to public service districts in technological, operational, financial and regulatory matters.

Acts 1986, c. 81.

Library References

Public Utilities ⇨ 145.

STANDARD PUBLIC HEALTH

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147. Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⇨ 222; Municipal Corporations ⇨ 225(1)

8. Admissibility of evidence

Extrinsic evidence relating to background and negotiations with regard to forming a public service district were not admissible in regard to construction of a contract for furnishing of water, where contract language was clear and unambiguous that district was to furnish water as customer should require. Berkeley County Public Service Dist. v. Vitro Corp. of America, 1968, 162 S.E.2d 189, 152 W.Va. 252. Evidence ⇨ 448

9. Costs

Costs of proceeding whereby constitutionality of statute authorizing creation of public service districts was tested would not be taxed against defendant who was chairman of public service board and who, honestly and in good faith, though mistakenly, endeavored to perform his duty in refusing to sign revenue bonds, and each litigant would pay his own costs. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⇨ 190

Westlaw Topic No. 317A.

C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

Notes of Decisions

In general 1

1. In general

Statute clearly and unambiguously gives Public Service Commission (PSC) power to reduce or increase utility rates whenever it finds that existing rate is unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provision of legislation governing Commission. Code, 24-1-1 et seq., 24-2-3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist.,

1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇌ 123

Legislature sought to establish in Public Service Commission (PSC) governmental entity which would protect public from unfair rates and practices by public utilities and also ensure that public utilities are given competitive return for their stockholders. Code, 24-2-3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇌ 123. Public Utilities ⇌ 129

§ 16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts

Each county commission shall conduct a study of all public service districts which have their principal offices within its county and shall develop a plan relating to the creation, consolidation, merger, expansion or dissolution of such districts or the consolidation or merger of management and administrative services and personnel and shall present such plan to the public service commission for approval, disapproval, or modification. Provided, That within ninety days of the effective date of this section each county commission in this state shall elect either to perform its own study or request that the public service commission perform such study. Each county commission electing to perform its own study has one year from the date of election to present such plan to the public service commission. For each county wherein the county commission elects not to perform its own study, the public service commission shall conduct a study of such county. The public service commission shall establish a schedule for such studies upon a priority basis, with those counties perceived to have the greatest need of creation or consolidation of public service districts receiving the highest priority. In establishing the priority schedule, and in the performance of each study, the bureau of public health and the division of environmental protection shall offer their assistance and cooperation to the public service commission. Upon completion by the public service commission of each study, it shall be submitted to the appropriate county commission for review and comment. Each county commission has six months in which to review the study conducted by the public service commission, suggest changes or modifications thereof, and present such plan to the public service commission. All county plans, whether conducted by the county commission itself or submitted as a result of a public service commission study, shall, by order, be approved, disapproved or modified by the public service commission in accordance with rules promulgated by the public service commission and such order shall be implemented by the county commission.

Acts 1986, c. 81; Acts 1994, c. 61.

Cross References

Public Service Commission, participation in studies, see § 24-1-1b.

Library References

Counties § 18, 47.

Westlaw Topic No. 104.

C.J.S. Counties §§ 31, 70 to 73.

§ 16-13A-1c. General purpose of districts

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water, sewerage or stormwater services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with: (1) The diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"); (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills"); (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"); or (4) the collection, control or disposal of stormwater (herein sometimes referred to as "stormwater system" or "stormwater systems"), or (5) the management, operation, maintenance and control of stormwater and stormwater systems (herein sometimes referred to as "stormwater management program" or "stormwater management programs"). As used in this article "stormwater system" or "stormwater systems" means a stormwater system in its entirety or any integral part thereof used to collect, control or dispose of stormwater, and includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies and pumping stations. Provided, That the term "stormwater system" or "stormwater systems" does not include highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways. As used in this article "stormwater management program" or "stormwater management programs" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater systems, and includes, but is not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforce-

ment and any other activities required by state and federal law. Provided, however, That the term "stormwater management program" or "stormwater management programs" does not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways.

Acts 1986, c. 81; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties §18.

Gas §12.

Municipal Corporations §5, 6.

Waters and Water Courses §183.5.

Westlaw Topic Nos. 104, 190, 268, 405.

C.J.S. Counties § 31.

C.J.S. Gas §§ 43 to 45.

C.J.S. Municipal Corporations § 11.

C.J.S. Waters §§ 483, 543 to 581.

§ 16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the Secretary of State

(a) The county commission of any county may propose the creation, enlargement, reduction, merger, dissolution, or consolidation of a public service district by any of the following methods: (1) On its own motion by order duly adopted, (2) upon the recommendation of the Public Service Commission, or (3) by petition of twenty-five percent of the registered voters who reside within the limits of the proposed public service district within one or more counties. The petition shall contain a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district: *Provided*, That after the effective date of this section, no new public service district shall be created, enlarged, reduced, merged, dissolved or consolidated under this section without the written consent and approval of the Public Service Commission, which approval and consent shall be in accordance with rules promulgated by the Public Service Commission and may only be requested after consent is given by the appropriate county commission or commissions pursuant to this section. Any territory may be included regardless of whether or not the territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties: *Provided, however*, That the same territory shall not be included within the boundaries of more than one public service district except where the territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services, stormwater services or gas facilities not being furnished within such territory or part thereof: *Provided further*, That no city, incorporated town or other municipal corporation shall be included within the boundaries of the proposed district

except upon the adoption of a resolution of the governing body of the city, incorporated town or other municipal corporation consenting.

(b) The petition shall be filed in the office of the clerk of the county commission of the county in which the territory to constitute the proposed district is situated, and if the territory is situated in more than one county, then the petition shall be filed in the office of the clerk of the county commission of the county in which the major portion of the territory extends, and a copy thereof (omitting signatures) shall be filed with each of the clerks of the county commission of the other county or counties into which the territory extends. The clerk of the county commission receiving such petition shall present it to the county commission of the county at the first regular meeting after the filing or at a special meeting called for the consideration thereof.

(c) When the county commission of any county enters an order on its own motion proposing the creation, enlargement, reduction, merger, dissolution or consolidation of a public service district, as aforesaid, or when a petition for the creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in the county on the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of the action. Within ten days of fixing the date of hearing, the county commission shall provide the Executive Secretary of the Public Service Commission with a copy of the order or petition and notification of the time and place of the hearing to be held by the county commission. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of the hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for the publication shall be by publication in each city, incorporated town or municipal corporation if available in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to the hearing.

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing

the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

(e) All persons residing in or owning or having any interest in property in the proposed public service district shall have an opportunity to be heard for and against its creation, enlargement, reduction, merger, dissolution or consolidation. At the hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district. If the county commission determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and extension of public service properties by the public service district will be conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create, enlarge, reduce, merge, dissolve or consolidate such public service district. If the county commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of the area or that the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create, enlarge, reduce, merge, dissolve or consolidate the district as amended.

(f) If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by enlargement, reduction, merger, dissolution or consolidation, it shall refuse to enter the order, but shall enter an order creating, enlarging, reducing, merging, dissolving or consolidating the area with an existing public service district, in accordance with rules adopted by the Public Service Commission for such purpose: *Provided*, That no enlargement of a public service district may occur if the present or proposed physical facilities of the public service district are determined by the appropriate county commission or the Public Service Commission to be inadequate to provide such enlarged service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating, enlarging, reducing, merging, dissolving or consolidating the district: *Provided, however*, That within ten days after the entry of an order creating, enlarging, reducing, merging, dissolving or consolidating a district, such order must be filed for review and approval by the Public Service Commission. The Public Service Commission may provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The Public Service Commission shall adopt rules relating to such filings and the approval, disapproval or modification of county commission orders for creating, enlarging, merging, dissolving or consolidating districts. The provisions of this section shall not apply to the implementation by a county commission of an order issued by the Public Service Commission pursuant to this section and section one-b, of this article.

(g) The county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not been extended, or dissolve the district if inactive or create or consolidate two or more such districts. If consolidation of districts is not feasible, the county commission may consolidate and centralize management and administration of districts within its county or multi-county area to achieve efficiency of operations. *Provided*, That where the county commission determines on its own motion by order entered of record, or there is a petition to enlarge the district, merge and consolidate districts, or the management and administration thereof, reduce the area of the district or dissolve the district if inactive, all of the applicable provisions of this article providing for hearing, notice of hearing and approval by the Public Service Commission shall apply. The Commission shall at all times attempt to bring about the enlargement or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district. *Provided, however*, That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article.

(h) A list of all districts and their current board members shall be filed by the county commission with the Secretary of State and the Public Service Commission by the first day of July of each year.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1967, c. 105; Acts 1975, c. 140; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1995, c. 125, eff. 90 days after March 11, 1995; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2005, c. 195, eff. 90 days after April 9, 2005.

Library References

Counties § 47; Municipal Corporations § 6; C.J.S. Counties §§ 70 to 73; C.J.S. Municipal Corporations § 113; Westlaw Topic Nos. 104, 268.

Notes of Decisions

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1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying wa-

ter and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes § 123(3); Statutes § 123(5).

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24.

State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ¶ 2355; Municipal Corporations ¶ 4

2. Creation of public service districts

Where notice, hearing and order with respect to creation of public service district considered only the question of furnishing water, such district was created only for the purposes of furnishing water services, and had no power to condemn real estate for sewerage facilities. Code, 16-13A-1, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Eminent Domain ¶ 32

Where public service district was created for purpose of furnishing water services, county court had authority to add sewerage services to the facilities of the district under appropriate proceedings. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ¶ 270

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ¶ 222; Municipal Corporations ¶ 225(1)

3. District boundaries

Public service district statute that allowed county commission to designate district's boundaries did not also empower commission to make service territories exclusive, displacing Public Service Commission's (PSC) authority to determine service rights. Code, 16-13A-2. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Counties ¶ 47

4. Notice of hearing

Provisions of statute, with respect to creation of public service districts, which relate to the filing of the petition or motion of the county court, the description of the territory to be embraced, and like provisions are mandatory; but, despite use of the word "shall," the require-

ments for posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ¶ 12(3); Municipal Corporations ¶ 12(6)

Though record with respect to creation of public service district was silent with respect to posting of notice of hearing and as to whether hearing was not more than 40 nor less than 20 days after his fixing the date for hearing as provided by statute, there was substantial compliance with statute where hearing was set some time prior to the date of the hearing, there was publication of notice more than ten days prior to the date of the hearing as required, and there were no objections either before, during or after the hearing to the creation of the district or to the procedures employed in its creation. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ¶ 12(6)

5. Number of voters within district

Public service district was not void because there were not 100 legal voters owning property within the district. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ¶ 6

6. Costs

Costs of proceeding whereby constitutionality of statute authorizing creation of public service districts was tested would not be taxed against defendant who was chairman of public service board and who, honestly and in good faith, though mistakenly, endeavored to perform his duty in refusing to sign revenue bonds, and each litigant would pay his own costs. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ¶ 190

7. Referendum

A public service district, once created by county court, not subject to referendum on issue to continue or be abolished. 52 W.Va. Op. Atty. Gen. 33 (August 11, 1966) 1966 WL 87428.

§ 16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into

contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, or for furnishing stormwater services for the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be persons residing within the district, who possess certain educational, business or work experience which will be conducive to operating a public service district. Each board member shall, within six months of taking office, successfully complete the training program to be established and administered by the public service commission in conjunction with the division of environmental protection and the bureau of public health. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the district nor shall a former board member be hired by the district in any capacity within a minimum of twelve months after board member's term has expired or such board member has resigned from the district board. The members shall be appointed in the following manner:

Each city, incorporated town or other municipal corporation having a population of more than three thousand but less than eighteen thousand is entitled to appoint one member of the board; and each city, incorporated town or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of the board for each additional eighteen thousand population. The members of the board representing such cities, incorporated towns or other municipal corporations shall be residents thereof and shall be appointed by a resolution of the governing bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in the office of the clerk of the county commission which entered the order creating the district, the persons so appointed become members of the board without any further act or proceedings. If the number of members of the board so appointed by the governing bodies of cities, incorporated towns or other municipal corporations included in the district equals or exceeds three, then no further members shall be appointed to the board and the members so appointed are the board of the district except in cases of merger or consolidation where the number of board members may equal five.

If no city, incorporated town or other municipal corporation having a population of more than three thousand is included within the district, then the county commission which entered the order creating the district shall appoint three members of the board, who are persons residing within the district and residing within the state of West Virginia, which three members become members of the board of the district without any further act or proceedings except in cases of merger or consolidation where the number of board members may equal five.

If the number of members of the board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district is less than three, then the county commission which entered the order creating the district shall appoint such additional member or members of the board, who are persons residing within the district, as is necessary to make the number of members of the board equal three except in cases of merger or consolidation where the number of board members may equal five, and the member or members appointed by the governing bodies of the cities, incorporated towns or other municipal corporations included within the district and the additional member or members appointed by the county commission as aforesaid, are the board of the district. A person may serve as a member of the board in one or more public service districts.

The population of any city, incorporated town or other municipal corporation, for the purpose of determining the number of members of the board, if any, to be appointed by the governing body or bodies thereof, is the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules promulgated by the public service commission. Whenever districts are consolidated or merged no provision of this code prohibits the expansion of membership on the new board to five.

The respective terms of office of the members of the first board shall be fixed by the county commission and shall be as equally divided as may be, that is approximately one third of the members for a term of two years, a like number for a term of four years, the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by taking an oath of office. Provided, That any member or members of the board may be removed from their respective office as provided in section three-a of this article.

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six

years and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed. The district shall provide to the public service commission, within thirty days of the appointment, the following information: The new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board. The public service commission shall notify each new board member of the legal obligation to attend training as prescribed in this section.

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after the first day of January of each year by selecting one of its members to serve as chair and by appointing a secretary and a treasurer who need not be members of the board. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records. Duplicate records shall be filed with the county commission and shall include the minutes of all board meetings. The treasurer is lawful custodian of all funds of the public service district and shall pay same out on orders authorized or approved by the board. The secretary and treasurer shall perform other duties appertaining to the affairs of the district and shall receive salaries as shall be prescribed by the board. The treasurer shall furnish bond in an amount to be fixed by the board for the use and benefit of the district.

The members of the board, and the chair, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1971, c. 72; Acts 1981, c. 124; Acts 1983, c. 166; Acts 1986, c. 81; Acts 1994, c. 61; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Law Review and Journal Commentaries

The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ? John W. Fisher, II, 98 W. Va. L. Rev. 449 (1996).
 Yes, West Virginia, there is a special priority for the purchase money mortgage. The recognition of purchase money mortgage priority in West Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

Library References

Counties §18
 Municipal Corporations §6
 Westlaw Topic Nos. 104, 268
 C.J.S. Counties § 31
 C.J.S. Municipal Corporations § 11

Notes of Decisions

In general 1
 Criminal responsibility of members 35
 Ministerial officers, generally 3
 Removal of members 4
 Sale of water 6
 Standard of care 2
 Tort Claims Act 7
 1. In general
 Board members of the Mt. Zion Public Service District cannot be compensated for performing the duties of treasurer and/or secretary

for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. 63 W.Va. Op.Atty.Gen. 2 (July 14, 1988) 1988 WL 483329.

2. Standard of care

Public service district owes duty of reasonable care to avoid damage to property of others with respect to maintenance of water lines. McCloud v. Salt Rock Water Public Service Dist., 2000, 533 S.E.2d 679, 207 W.Va. 453. Waters And Water Courses ⇨ 205

3. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or district board member or officer to be or become pecuniarily interested in proceeds of any contract or service over which he might have any voice, influence, or control, is not directed against actual fraud or collusion but is for purpose of preventing those acts and eliminating any opportunity therefor, and purpose of statute is to protect public funds and give official recognition to fact that person cannot properly represent public in transacting business with himself. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Courts ⇨ 55; Judges ⇨ 21

4. Removal of members

Public Service District board member can be removed by majority vote of registered voters. 51 W.Va. Op.Atty.Gen. 564 (November 10, 1965) 1965 WL 92492.

5. Criminal responsibility of members

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⇨ 60

6. Sale of water

Public Service Districts may sell, at wholesale, bulk water to other municipal corporations. 51 W.Va. Op.Atty.Gen. 739 (March 16, 1966) 1966 WL 87469.

7. Tort Claims Act

Tort Claims Act's protection extended to public service districts, under the Act's definition of political subdivision, which included the term "public service districts," despite general authorization for public service districts to "sue and be sued," in the Public Health statutes. Zirkle v. Elkins Road Public Service Dist., 2007, 655 S.E.2d 155. Waters And Water Courses ⇨ 183.5

§ 16-13A-3a. Removal of members of public service board

The county commission or the public service commission or any other appointive body creating or establishing a public service district under the provisions of this article, or any group of five percent or more of the customers of a public service district, may petition the circuit court of the county in which the district maintains its principal office for the removal of any member of the governing board thereof for consistent violations of any provisions of this article, for reasonable cause which includes, but is not limited to, a continued failure to attend meetings of the board, failure to diligently pursue the objectives for which the district was created, or failure to perform any other duty either prescribed by law or required by a final order of the public service commission or for any malfeasance in public office. Any board member charged with a violation under this section who offers a successful defense against such charges shall be reimbursed for the reasonable costs of such defense from district revenues. Such costs shall be considered as costs associated with rate determination by the public service district and the public service commission. If the circuit court judge hearing the petition for removal finds that the charges are frivolous in nature, the judge may assess all or part of the court costs, plus the reasonable costs associated with the board member's defense, against the party or parties who petitioned the court for the board member's removal.

Acts 1963, c. 75; Acts 1971, c. 72; Acts 1981, c. 124; Acts 1986, c. 81.

Library References

Counties \S 45
 Public Utilities \S 145
 Westlaw Topic Nos. 104, 317A
 C.J.S. Counties \S 67
 C.J.S. Public Utilities \S 26 to 32, 159 to 167, 169 to 171, 177 to 178

Notes of Decisions

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Ministerial officers, generally 2
Sufficiency of evidence 3

1. Criminal responsibility of members

Upon becoming member of county commission, person who is pecuniarily interested in proceeds of any contract or service with public service district violates criminal conflict of interest statute; by virtue of that position, that person has some voice, influence, or control over continuation of contract. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties \S 60

2. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or district board member or officer to be or become pecuniarily interested in proceeds of any contract or service over which he might have any voice, influence, or control, is not directed against actual fraud or collusion but is for purpose of preventing those acts and eliminating any opportunity therefor, and purpose of statute

is to protect public funds and give official recognition to fact that person cannot properly represent public in transacting business with himself. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Courts \S 55; Judges \S 21

3. Sufficiency of evidence

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties \S 60

Conflict of interest indictment against county commissioner was sufficient even though it did not characterize commissioner's interest as pecuniary, and commissioner was not entitled to bill of particulars. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties \S 60

§ 16-13A-4. Board chairman; members' compensation; procedure; district name

(a) The chairman shall preside at all meetings of the board and may vote as any other member of the board. If the chairman is absent from any meeting, the remaining members may select a temporary chairman and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organization meeting.

(b) Salaries of the board members are:

(1) For districts with fewer than six hundred customers, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

(2) For districts with six hundred customers or more but fewer than two thousand customers, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

(3) For districts with two thousand customers or more, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five

dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

(4) For districts with four thousand or more customers, up to one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum.

The public service district shall certify the number of customers served to the Public Service Commission beginning on the first day of July, one thousand nine hundred eighty-six, and continue each fiscal year thereafter.

(c) Public service districts selling water to other water utilities for resale may adopt the following salaries for its board members:

(1) For districts with annual revenues of less than fifty thousand dollars, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

(2) For districts with annual revenues of fifty thousand dollars or more, but less than two hundred fifty thousand dollars, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

(3) For districts with annual revenues of two hundred fifty thousand dollars or more, but less than five hundred thousand dollars, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

(4) For districts with annual revenues of five hundred thousand dollars or more, up to one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum.

The public service district shall certify the number of customers served and its annual revenue to the public service commission beginning on the first day of July, two thousand, and continue each fiscal year thereafter.

(d) Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided for by the rules of the board.

(e) The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three, article nine-a, chapter six of this code. Emergency meetings may be called as provided for by said section. A majority of the members constituting the board also constitute a quorum to do business.

(f) The members of the board are not personally liable or responsible for any obligations of the district or the board, but are answerable only for willful

misconduct in the performance of their duties. The county commission which created a district or county commissions if more than one created the district may, upon written request of the district, adopt an order changing the official name of a public service district: *Provided*, That such name change will not be effective until approved by the public service commission of West Virginia and the owners of any bonds and notes issued by the district, if any, shall have consented, in writing, to the name change. If a district includes territory located in more than one county, the county commission or county commissions changing the name of the district shall provide any county commission into which the district also extends with a certified copy of the order changing the name of the district. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2000, c. 199, eff. 90 days after March 11, 2000; Acts 2005, c. 196, eff. 90 days after April 8, 2005.

Library References

Counties § 68, 87; C.J.S. Counties §§ 107 to 118, 128.
Municipal Corporations § 161; C.J.S. Municipal Corporations §§ 372 to 390.
Westlaw Topic Nos. 104, 268.

Notes of Decisions

In general 1. Forming the duties of treasurer and/or secretary for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. 63 W.Va. Op. Atty. Gen. 2 (July 14, 1988) 1988 WL 483329.

§ 16-13A-5. General manager of board

The board may employ a general manager to serve a term of not more than five years and until his or her successor is employed, and his or her compensation shall be fixed by resolution of the board. Such general manager shall devote all or the required portion of his or her time to the affairs of the district and may employ, discharge and fix the compensation of all employees of the district, except as in this article otherwise provided, and he or she shall perform and exercise such other powers and duties as may be conferred upon him or her by the board.

Such general manager shall be chosen without regard to his or her political affiliations and upon the sole basis of his or her administrative and technical qualifications to manage public service properties and affairs of the district and he or she may be discharged only upon the affirmative vote of two thirds of the board. Such general manager need not be a resident of the district at the time he or she is chosen. Such general manager may not be a member of the board but shall be an employee of the board.

The board of any public service district which purchases water, sewer or stormwater service from a municipal water, sewer or stormwater system or

another public service district may, as an alternative to hiring its own general manager, elect to permit the general manager of the municipal water, sewer or stormwater system or public service district from which such water, sewer or stormwater service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties 65, 68.	C.J.S. Counties §§ 101 to 103, 107 to 118.
Municipal Corporations 149, 161.	C.J.S. Municipal Corporations §§ 361 to 366,
Westlaw Topic Nos. 104, 268.	368, 372 to 390.

§ 16-13A-6. Employees of board

The board may in its discretion from time to time by resolution passed by a majority vote provide for the employment of an attorney, fiscal agent, one or more engineers and such other employees as the board may determine necessary and expedient. The board shall in and by such resolution fix the term of employment and compensation and prescribe the duties to be performed by such employees.

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties 65, 68, 87.	C.J.S. Municipal Corporations §§ 361 to 366,
Municipal Corporations 149, 161, 170.	368, 372 to 405.
Westlaw Topic Nos. 104, 268.	
C.J.S. Counties §§ 101 to 103, 107 to 118,	
128.	

§ 16-13A-7. Acquisition and operation of district properties

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than fifteen thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three, chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent

possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years.

Acts 1953, c. 147; Acts 1967, c. 105; Acts 1981, c. 124; Acts 1982, c. 24; Acts 1986, c. 81; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties §107. C.J.S. Counties § 147.
Municipal Corporations §711. C.J.S. Municipal Corporations § 1535.
Public Utilities §114. C.J.S. Public Utilities §§ 5 to 9, 202 to 207.
Westlaw Topic Nos. 104, 268, 317A.

§ 16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers

The board may acquire any publicly or privately owned public service properties located within the boundaries of the district regardless of whether or not all or any part of such properties are located within the corporate limits of any city, incorporated town or other municipal corporation included within the district and may purchase and acquire all rights and franchises and any and all property within or outside the district necessary or incidental to the purpose of the district.

The board may construct any public service properties within or outside the district necessary or incidental to its purposes and each such district may acquire, construct, maintain and operate any such public service properties within the corporate limits of any city, incorporated town or other municipal corporation included within the district or in any unincorporated territory within ten miles of the territorial boundaries of the district. Provided, That if any incorporated city, town or other municipal corporation included within the district owns and operates either water facilities, sewer facilities, stormwater facilities or gas facilities or all of these, then the district may not acquire, construct, establish, improve or extend any public service properties of the same kind within such city, incorporated towns or other municipal corporations or the adjacent unincorporated territory served by such cities, incorporated towns or other municipal corporations, except upon the approval of the public service commission, the consent of such cities, incorporated towns or other municipal corporations and in conformity and compliance with the rights of the holders of any revenue bonds or obligations theretofore issued by such cities, incorporated towns or other municipal corporations then outstanding

and in accordance with the ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

Whenever such district has constructed, acquired or established water facilities, sewer facilities, a stormwater system, stormwater management program or gas facilities for water, sewer, stormwater or gas services within any city, incorporated town or other municipal corporation included within a district, then such city, incorporated town or other municipal corporation may not thereafter construct, acquire or establish any facilities of the same kind within such city, incorporated town or other municipal corporation without the consent of such district.

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That the power of eminent domain provided in this section does not extend to highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways: Provided, however, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof.

Acts 1953, c. 147; Acts 1980, c. 60; Acts 1981, c. 124; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties § 103, 104.

Eminent Domain § 6, 16.

Municipal Corporations § 221, 224.

Westlaw Topic Nos. 104, 148, 268.

C.J.S. Counties §§ 143 to 144, 147.

C.J.S. Municipal Corporations §§ 873 to 880.

C.J.S. Property § 17.

Notes of Decisions

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1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying wa-

Note 1

ter and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes   123(3); Statutes   123(5).

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation   2289.

2. In general

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law   2510.

3. Eminent domain powers

Although construction of new facility proposed by utility will often require taking of private property through eminent domain, absent express statutory language Public Service Commission (PSC) has no duty to review and decide issues that are inherent in eminent domain proceeding. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Public Utilities   114.

Statute providing that private property may be taken or damaged for a number of specified purposes is consonant with organic law and is constitutional. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Eminent Domain   3.

4. Valuation of property

Although landowner is competent to give estimate of value of property in eminent domain proceeding, that valuation is not conclusive; government agency may rely on appraisal report concerning estimated value of property to

be taken. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Evidence   568(4).

5. Environmental assessment

Whether construction of sewage lagoons would constitute "nuisance" does not defeat Public Service Commission's (PSC) jurisdiction to issue certificate of public convenience and necessity; while PSC may assess environmental considerations, chief inquiry by PSC is need of public for project. Code, 24-2-11. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Municipal Corporations   708.

6. Connections with sewers or drains

City, rather than sewer and water districts, was entitled to provide sewer and water services to newly developed tract that was within districts' boundaries, but was annexed to city, where such services were not previously furnished to tract. Code, 16-13A-8. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations   712(1); Waters And Water Courses   201.

If a tract of real estate located within a public service district has been annexed into a municipality, then, as between the municipality and the public service district, the municipality has the superior right to extend water and/or sewer service which were not being previously furnished to the tract by the public service district, and under those circumstances, a public service district would need the consent of the municipality and the Public Service Commission (PSC) in order to provide such service. Code, 16-13A-8. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations   712(1); Waters And Water Courses   201; Waters And Water Courses   202.

7. Public corporation

A public service district is a public corporation and does not come within constitutional provision which in substance provides that all corporations shall be created by general laws and which is applicable to private corporations. Acts 1953, c. 147, § 1 et seq.; Const. art. 11, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes   80(3).

§ 16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management,

maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district. The board shall establish rates, fees and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of the public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds under this article. The schedule of the rates, fees and charges may be based upon:

(A) The consumption of water or gas on premises connected with the facilities, taking into consideration domestic, commercial, industrial and public use of water and gas;

(B) The number and kind of fixtures connected with the facilities located on the various premises;

(C) The number of persons served by the facilities;

(D) Any combination of paragraphs (A), (B) and (C) of this subdivision; or

(E) May be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater facilities constructed, owned or operated by the West Virginia division of highways.

(2) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of section eight, article three, chapter twenty-four of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or fifty dollars, with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or fifty dollars and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or fifty dollars. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or fifty dollars

has been remitted to the district. After twelve months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the public service commission may prescribe: *Provided*, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the public service commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, ten days after the water or gas services become delinquent.

(b) In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately either water facilities or sewer facilities, and the district owns and operates the other kind of facilities either water or sewer, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer service fees and charges: *Provided*, That any contracts entered into by a public service district pursuant to this section shall be submitted to the public service commission for approval. Any public service district providing water and sewer service to its customers has the right to terminate water service for delinquency in payment of either water or sewer bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer district is providing water service, and the district providing sewer service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer district that is providing water service, upon the request of the district providing sewer service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer account: *Provided, however*, That any termination of water service must comply with all rules and orders of the public service commission.

(c) Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the division of health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the division of health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and buildings where

there is gravity flow or transportation by any other methods approved by the division of health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code and the houses, dwellings and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump or any other method approved by the division of health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

(d) Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near the sewer facility and the engineer for the district has certified that the sewer facilities are available to and are adequate to serve the owner, tenant or occupant and sewage will flow by gravity or be transported by other methods approved by the division of health from the house, dwelling or building into the sewer facilities, the district may charge, and the owner, tenant or occupant shall pay the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner, tenant or occupant. Rates and charges for sewage services shall be based upon actual water consumption or the average monthly water consumption based upon the owner's, tenant's or occupant's specific customer class.

(e) Whenever any district has made available a stormwater system to any owner, tenant or occupant of any real property located near the stormwater system and where stormwater from real property affects or drains into the stormwater system, it is hereby found, determined and declared that the owner, tenant or occupant is being served by the stormwater system and it is further hereby found, determined and declared that the mandatory use of the stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge, and the owner, tenant or occupant shall pay the rates, fees and charges for stormwater services established under this article only after thirty-day notice of the availability of the stormwater system has been received by the owner.

(f) All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, gas facilities or stormwater systems or stormwater management programs are liens on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and municipi-

pal taxes. In addition to the other remedies provided in this section, public service districts are granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer, stormwater or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts. *Provided*, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of the real property, unless the owner has contracted directly with the public service district to purchase the services or facilities.

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three, article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the division of environmental protection, as prescribed by section eleven, article eleven, chapter twenty-two of this code, is exempt from the provisions of this section.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1989, c. 174; Acts 1994, c. 61; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2003, c. 183, eff. 90 days after March 8, 2003.

Law Review and Journal Commentaries

The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ? John W. Fisher, II, 98 W. Va. L. Rev. 449 (1996).

"Yes, West Virginia, there is a special priority for the purchase money mortgage." The recog-

nition of purchase money mortgage priority in West Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

Library References

Gas ☞ 14.6.

Municipal Corporations ☞ 712.

Waters and Water Courses ☞ 203.

Westlaw Topic Nos. 190, 268, 405.

C.J.S. Gas §§ 64, 84 to 85.

C.J.S. Municipal Corporations § 1535.

C.J.S. Waters §§ 483, 666 to 732.

Notes of Decisions

Notice of availability of sewer service 5

Public service district liens 3

Rates and charges for service 4

Takings 2

Validity 1

1. Validity

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution of

applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A. Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W. Va. 233. Constitutional Law ☞ 4416; Municipal Corporations ☞ 408(1).

2. Takings

Public service district's requiring property owner to connect onto its sewer system and to abandon private sewer system located on property was not a taking of private property without just compensation. Const. Art. 3, § 9; Code, 16-13A-9; U.S.C.A. Const. Amend. 5. Kingmill Valley Public Service Dist. v. River-

view Estates Mobile Home Park, Inc.; 1989, 386 S.E.2d 483, 182 W.Va. 116. Eminent Domain ⇨ 2.18

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 2510

3. Public service district liens

Public service district liens must be docketed to be enforceable against purchaser of property for valuable consideration, without notice. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Gas ⇨ 14.6; Municipal Corporations ⇨ 712(7); Waters And Water Courses ⇨ 203(14)

Public service district's failure to docket notice of lien prior to date purchaser recorded deed of trust prevented district from enforcing sewer lien against purchaser. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Municipal Corporations ⇨ 712(7)

If owner, tenant or occupant of garage apartment did not receive notice that public service district's sewer facilities were available for apartment, district would have been without statutory authority to impose charges and a lien against apartment for sewer services, though the apartment was on a lot containing another dwelling which was properly subject to sewer service charges. Code, 16-13A-9, 16-13A-21. Rhodes v. Malden Public Service Dist., 1983, 301 S.E.2d 601, 171 W.Va. 645. Municipal Corporations ⇨ 712(7)

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal

Corporations ⇨ 222; Municipal Corporations ⇨ 225(1)

4. Rates and charges for service

Statute clearly and unambiguously gives Public Service Commission (PSC) power to reduce or increase utility rates whenever it finds that existing rate is unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provision of legislation governing Commission. Code, 24-1-1 et seq., 24-2-3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇨ 123

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16-13A-1 et seq.; 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇨ 110

Duty imposed on public service district, a public corporation and political subdivision of state, to establish rates and charges sufficient to pay cost of maintenance, operation and depreciation of properties of district and principal of and interest on all bonds issued by district is nondiscretionary duty which may be enforced by mandamus. Code, 16-13A-9. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇨ 80

5. Notice of availability of sewer service

Issue of fact as to whether owner or tenant had received notice that public service district's sewer services were available for garage apartment, so as to allow imposition of sewer service charges and a lien against apartment, was not appropriate for resolution in mandamus proceeding. Code, 16-13A-9, 16-13A-21. Rhodes v. Malden Public Service Dist., 1983, 301 S.E.2d 601, 171 W.Va. 645. Mandamus ⇨ 174

§ 16-13A-9a. Limitations with respect to foreclosure

No public service district shall foreclose upon the premises served by such district for delinquent fees, rates or charges for which a lien is authorized by sections nine or nineteen of this article except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the district lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that

the district prior to the bringing of such action had exhausted all other remedies for the collection of debts with respect to such delinquencies. In no event shall foreclosure procedures be instituted by any such district or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought.

Acts 1982, c. 74.

Library References

Gas ☞ 14.6.
Municipal Corporations ☞ 712.
Waters and Water Courses ☞ 203.
Westlaw Topic Nos. 190, 268, 405.

C.J.S. Gas §§ 64, 84 to 85.
C.J.S. Municipal Corporations § 1535.
C.J.S. Waters §§ 483, 666 to 732.

§ 16-13A-10. Budget

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board.

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties ☞ 154.5.
Municipal Corporations ☞ 879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

Notes of Decisions

In general

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered

by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ☞ 110

§ 16-13A-11. Accounts; audit

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders

pertaining thereto by the public service commission, showing receipts from operation and application of the same, and the board shall at least once a year cause such accounts to be properly audited: Provided, That such audit may be any audit by an independent public accountant completed within one year of the time required for the submission of the report: Provided, however, That if the district is required to have its books, records and accounts audited annually by an independent certified public accountant as a result of any covenant in any board resolution or bond instrument, a copy of such audit may be submitted in satisfaction of the requirements of this section, and is hereby found, declared and determined to be sufficient to satisfy the requirements of article nine, chapter six of this code pertaining to the annual audit report by the state tax commission. A copy of the audit shall be forwarded within thirty days of submission to the county commission and to the public service commission.

The treasurer of each public service district shall keep and preserve all financial records of the public service district for ten years, and shall at all times have such records readily available for public inspection. At the end of his term of office, the treasurer of each public service district shall promptly deliver all financial records of the public service district to his successor in office. Any treasurer of a public service district who knowingly or willfully violates any provision of this section is guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail not more than ten days, or both.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81.

Library References

Counties Ⓒ154.5.
Municipal Corporations Ⓒ879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

§ 16-13A-12. Disbursement of district funds

No money may be paid out by a district except upon an order signed by the chairman and secretary of such board, or such other person or persons authorized by the chairman or secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the board.

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties Ⓒ158.
Municipal Corporations Ⓒ883.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 198.
C.J.S. Municipal Corporations §§ 1626, 1635.

§ 16-13A-13. Revenue bonds.

For constructing or acquiring any public service properties for the authorized purposes of the district, or necessary or incidental thereto, and for constructing improvements and extensions thereto, and also for reimbursing or paying the costs and expenses of creating the district, the board of any such district is hereby authorized to borrow money from time to time and in evidence thereof issue the bonds of such district, payable solely from the revenues derived from the operation of the public service properties under control of the district. Such bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may bear interest at such rate or rates not exceeding eighteen percent per annum payable at such times, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be subject to such terms of redemption with or without premium, may be declared or become due before maturity date thereof, may be authenticated in any manner, and upon compliance with such conditions, and may contain such terms and covenants as may be provided by resolution or resolutions of the board. Notwithstanding the form or tenor thereof, and in the absence of any express recital on the face thereof, that the bond is nonnegotiable, all such bonds shall be and shall be treated as, negotiable instruments for all purposes. Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be such officers. Notwithstanding the requirements or provisions of any other law, any such bonds may be negotiated or sold in such manner and at such time or times as is found by the board to be most advantageous, and all such bonds may be sold at such price that the interest cost of the proceeds therefrom does not exceed nineteen percent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolution or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized.

Acts 1953, c. 147; Acts 1970, c. 11; Acts 1970, c. 12; Acts 1970, 1st Ex. Sess., c. 2; Acts 1980, c. 33; Acts 1981, 1st Ex. Sess., c. 2; Acts 1989, c. 174.

Library References

Counties § 174.

C.J.S. Counties § 218.

Municipal Corporations § 911.

C.J.S. Municipal Corporations §§ 1647 to 1649.

Westlaw Topic Nos. 104, 268.

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such

charges with Public Service Commission. Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus. 110

Two acts amending same Code section in same manner except as to maximum interest rate of bonds, enacted on same date at same legislative session, and impossible to determine which passed after the other, that having lower maximum interest rate will govern. 53 W.Va. Op. Atty. Gen. 418 (April 8, 1970) 1970 WL 116579.

§ 16-13A-14. Items included in cost of properties

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; for stormwater systems and associated stormwater management programs, those activities which include, but are not limited to, water quality improvement activities necessary to comply with all federal and state requirements; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof.

Acts 1953, c. 147; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties 154.5.

Municipal Corporations 879.

Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

§ 16-13A-15. Bonds may be secured by trust indenture

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the State of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the public service properties or any part thereof. The resolution authorizing the bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable

and proper, not in violation of law, including covenants setting forth the duties of the district and the members of its board and officers in relation to the construction or acquisition of public service properties and the improvement, extension, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that all or any part of the construction work shall be contracted for, constructed and paid for, under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, their successors, assignees or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the public service properties or other money pertaining thereto be satisfactory to such purchasers, their successors, assignees or nominees. Such indenture may set forth the rights and remedies of the bondholders and such trustee.

Acts 1953, c. 147.

Library References

Counties §183.

C.J.S. Counties § 222.

Municipal Corporations §950(15).

C.J.S. Municipal Corporations §§ 1708 to 1709.

Westlaw Topic Nos. 104, 268.

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

§ 16-13A-16. Sinking fund for revenue bonds

At or before the time of the issuance of any bonds under this article the board shall by resolution or in the trust indenture provide for the creation of a sinking fund and for monthly payments into such fund from the revenues of the public service properties operated by the district such sums in excess of the cost of maintenance and operation of such properties as will be sufficient to pay the accruing interest and retire the bonds at or before the time each will respectively become due and to establish and maintain reserves therefor. All sums which are or should be, in accordance with such provisions, paid into such sinking fund shall be used solely for payment of interest and for the retirement of such bonds at or prior to maturity as may be provided or required by such resolutions.

Acts 1953, c. 147.

Library References

Counties §186.5.

C.J.S. Municipal Corporations §§ 1704 to 1705.

Municipal Corporations §951.

Westlaw Topic Nos. 104, 268.

§ 16-13A-17. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver

The board of any such district shall have power to insert enforceable provisions in any resolution authorizing the issuance of bonds relating to the collection, custody and application of revenues of the district from the operation of the public service properties under its control and to the enforcement of the covenants and undertakings of the district. In the event there shall be default in the sinking fund provisions aforesaid or in the payment of the principal or interest on any of such bonds or, in the event the district or its board or any of its officers, agents or employees, shall fail or refuse to comply with the provisions of this article, or shall default in any covenant or agreement made with respect to the issuance of such bonds or offered as security therefor, then any holder or holders of such bonds and any such trustee under the trust indenture, if there be one, shall have the right by suit, action, mandamus or other proceeding instituted in the circuit court for the county or any of the counties wherein the district extends, or in any other court of competent jurisdiction, to enforce and compel performance of all duties required by this article or undertaken by the district in connection with the issuance of such bonds, and upon application of any such holder or holders, or such trustee, such court shall, upon proof of such defaults, appoint a receiver for the affairs of the district and its properties, which receiver so appointed shall forthwith directly, or by his agents and attorneys, enter into and upon and take possession of the affairs of the district and each and every part thereof, and hold, use, operate, manage and control the same, and in the name of the district exercise all of the rights and powers of such district as shall be deemed expedient, and such receiver shall have power and authority to collect and receive all revenues and apply same in such manner as the court shall direct. Whenever the default causing the appointment of such receiver shall have been cleared and fully discharged and all other defaults shall have been cured, the court may in its discretion and after such notice and hearing as it deems reasonable and proper direct the receiver to surrender possession of the affairs of the district to its board. Such receiver so appointed shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of the district except as hereinbefore provided.

Acts 1953, c. 147.

Library References

Counties § 188.

C.J.S. Counties § 226.

Municipal Corporations § 937, 955.

C.J.S. Municipal Corporations §§ 1707, 1711.

Westlaw Topic Nos. 104, 268.

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered

by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus 110

§ 16-13A-18. Operating contracts

The board may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the public service properties within the district, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between the board and such persons, firms or corporations. The board shall have power to provide in the resolution authorizing the issuance of bonds, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the district as long as any of said bonds, or interest thereon, are outstanding and unpaid.

Acts 1953, c. 147.

Library References

Counties 114.

C.J.S. Counties § 161.

Municipal Corporations 328.

C.J.S. Municipal Corporations §§ 1027 to

Westlaw Topic Nos. 104, 268.

1029.

§ 16-13A-18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds

In any case where a public service district owns a water, sewer, stormwater or gas system, and a majority of not less than sixty percent of the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer, stormwater or gas system to any municipality or privately-owned water, sewer, stormwater or gas system, or to any water, sewer, stormwater or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer, stormwater or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district. Provided, That such sale, leasing or rental may be made only upon: (1) The publication of notice of a hearing before the board of the public service district, as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, in a newspaper published and of general circulation in the county or counties wherein the district is located, such publication to be made not earlier than twenty days and not later than seven days prior to the hearing; (2) approval by the county commission or commissions of the county or counties in which the district operates; and (3) approval by the public service commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer, stormwater or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water, sewer, stormwater or gas system is located to be placed in the general funds of such county commission.

Acts 1963, c. 75; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1997, c. 160, eff. 90 days after April 10, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties Ⓒ110.

Municipal Corporations Ⓒ225.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 147.

C.J.S. Municipal Corporations §§ 882 to 892.

§ 16-13A-19. Statutory mortgage lien created; foreclosure thereof

There shall be and is hereby created a statutory mortgage lien upon such public service properties of the district, which shall exist in favor of the holders of bonds hereby authorized to be issued, and each of them, and the coupons attached to said bonds, and such public service properties shall remain subject to such statutory mortgage lien until payment in full of all principal of and interest on such bonds. Any holder of such bonds, of any coupons attached thereto, may, either at law or in equity, enforce said statutory mortgage lien conferred hereby and upon default in the payment of the principal of or interest on said bonds, may foreclose such statutory mortgage lien in the manner now provided by the laws of the State of West Virginia for the foreclosure of mortgages on real property.

Acts 1953, c. 147.

Library References

Counties Ⓒ188.

Municipal Corporations Ⓒ937, 955.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 226.

C.J.S. Municipal Corporations §§ 1707, 1711.

Notes of Decisions

In general 1

1. In general

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property

of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations Ⓒ 222; Municipal Corporations Ⓒ 225(1)

§ 16-13A-20. Refunding revenue bonds

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding

bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded. Acts 1953, c. 147.

Library References

Counties Ⓒ175.

C.J.S. Counties § 218.

Municipal Corporations Ⓒ913.

C.J.S. Municipal Corporations §§ 1647 to

Westlaw Topic Nos. 104, 268.

1648, 1651.

§ 16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption

This article is full and complete authority for the creation of public service districts and for carrying out the powers and duties of same as herein provided. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals, are required in connection therewith except as may be prescribed by this article: Provided, That all functions, powers and duties of the public service commission of West Virginia, the bureau of public health, the division of environmental protection and the environmental quality board remain unaffected by this article. Every district organized, consolidated, merged or expanded under this article is a public instrumentality created and functioning in the interest and for the benefit of the public, and its property and income and any bonds issued by it are exempt from taxation by the state of West Virginia, and the other taxing bodies of the state: Provided, however, That the board of any such district may use and apply any of its available revenues and income for the payment of what such board determines to be tax or license fee equivalents to any local taxing body and in any proceedings for the issuance of bonds of such district may reserve the right to annually pay a fixed or computable sum to such taxing bodies as such tax or license fee equivalent.

Acts 1953, c. 147; Acts 1986, c. 81; Acts 1994, c. 61.

Library References

Counties Ⓒ18.

Westlaw Topic Nos. 104, 268, 371.

Municipal Corporations Ⓒ5.

C.J.S. Counties § 31.

Taxation Ⓒ2316, 3519.

C.J.S. Municipal Corporations § 11.

Notes of Decisions

In general 2
Validity 1

c. 147; U.S.C.A. Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law Ⓒ 4056; Municipal Corporations Ⓒ 4

1. Validity

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953,

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional

delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law 2355; Municipal Corporations 4

2. In general

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl,

1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations 222; Municipal Corporations 225(1)

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes 123(3); Statutes 123(5)

§ 16-13A-22. Validation of prior acts and proceedings of county courts for creation of districts, inclusion of additional territory, and appointment of members of district boards

All acts and proceedings taken by any county court of this State purporting to have been carried out under the provisions of this article which have been taken, prior to the date this section takes effect, for the purpose of creating public service districts or for the purpose of subsequent inclusion of additional territory to existing public service districts, after notice published by any such county court having territorial jurisdiction thereof of its intention to include such additional territory after hearing thereon, are hereby validated, ratified, approved and confirmed notwithstanding any other lack of power (other than constitutional) of any such county court to create such public service districts or to include additional territory to existing public service districts or irregularities (other than constitutional) in such proceedings, relating to the appointment and qualification of more than three members to the board of any such public service district or the subsequent appointment of successors of any or all of such members, notwithstanding that no city, incorporated town or other municipal corporation having a population in excess of three thousand is included within the district; and the appointment and qualification of such members, and further including any irregularities in the petition for the creation of any public service district, irregularities in the description of the area embraced by such district, and irregularities in the notice and publication of notice for the hearing creating such district, prior to the date this section takes effect, is hereby validated, ratified, approved and confirmed; and, further, in such cases where more than three members of the board of such districts have been so appointed prior to the date this section takes effect then such county court shall appoint, and they are hereby authorized and empowered to appoint, successors to such members in the manner as otherwise provided by this article.

Acts 1958, c. 14; Acts 1960, c. 19.

W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.

Library References

Counties §18.

C.J.S. Counties § 31.

Municipal Corporations §5.

C.J.S. Municipal Corporations §11.

Westlaw Topic Nos. 104, 268.

§ 16-13A-23. Validation of acts and proceedings of public service boards

All acts and proceedings taken by any public service board the members of which were appointed, prior to the date this section takes effect, by any county court of this State having territorial jurisdiction thereof, are hereby validated, ratified, approved and confirmed, as to defects and irregularities which may otherwise exist on account of their appointment and qualification: Provided, however, That nothing herein contained shall be construed to excuse a criminal act.

Acts 1958, c. 14; Acts 1960, c. 19; Acts 1965, c. 134.

W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.

Library References

Counties §47.

C.J.S. Counties §§ 70 to 73.

Municipal Corporations §166.

C.J.S. Municipal Corporations §§ 369 to 371.

Westlaw Topic Nos. 104, 268.

§ 16-13A-24. Acceptance of loans, grants or temporary advances

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner and subject to the privileges and limitations set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems, stormwater systems, or stormwater management systems or gas facilities, or all of these, and the other purposes herein authorized, from any authorized agency or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article, the revenues of the said water system, sewage system, stormwater system or associated stormwater management system or gas facilities, or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary

advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

Acts 1958, c. 14; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 118; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties Ⓒ149.

C.J.S. Counties §§ 185, 187.

Municipal Corporations Ⓒ864(3).

C.J.S. Municipal Corporations. §§ 1583 to 1585, 1587.

Westlaw Topic Nos. 104, 268.

Notes of Decisions

In general 1

note, is permissible borrowing under this section. 62 W.Va. Op. Atty. Gen. 27 (May 6, 1988) 1988 WL 483331.

1. In general

The borrowing by PSD's of money from counties and/or municipalities, as evidenced by a

§ 16-13A-25. Borrowing and bond issuance; procedure

(a) Notwithstanding any other provisions of this article to the contrary, a public service district may not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four of this article without the prior consent and approval of the Public Service Commission: *Provided*, That approval of funding set forth in section eleven, article two, chapter twenty-four of this code or this section is not required if the funding is for a project which has received a certificate of public convenience and necessity after the eighth day of July, two thousand five, from the commission and where the cost of the project changes but the change does not affect the rates established for the project.

(b) The Public Service Commission may waive the provision of prior consent and approval for entering into contracts for engineering, design or feasibility studies pursuant to this section for good cause shown which is evidenced by the public service district filing a request for waiver of this section stated in a letter directed to the commission with a brief description of the project, a verified statement by the board members that the public service district has complied with chapter five-g of this code, and further explanation of ability to evaluate their own engineering contract, including, but not limited to:

- (1) Experience with the same engineering firm; or
- (2) Completion of a construction project requiring engineering services. The district shall also forward an executed copy of the engineering contract to the commission after receiving approval of the waiver.
- (c) An engineering contract that meets one or more of the following criteria is exempt from the waiver or approval requirements:

- (1) A contract with a public service district that is a Class A utility on the first day of April, two thousand three, or subsequently becomes a Class A utility as defined by commission rule;

(2) A contract with a public service district that does not require borrowing and that can be paid out of existing rates;

(3) A contract where the payment of engineering fees are contingent upon the receipt of funding, and commission approval of the funding, to construct the project which is the subject of the contract; or

(4) A contract that does not exceed fifteen thousand dollars.

(d) Requests for approval or waivers of engineering contracts shall be deemed granted thirty days after the filing date unless the staff of the Public Service Commission or a party files an objection to the request. If an objection is filed, the Public Service Commission shall issue its decision within one hundred twenty days of the filing date. In the event objection is received to a request for a waiver, the application shall be considered a request for waiver as well as a request for approval in the event a waiver is not appropriate.

(e) Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the Public Service Commission in accordance with the provision of chapter twenty-four of this code when a public service district is seeking to acquire or construct public service property.

Acts 1969, 1st Ex. Sess., c. 6; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1996, c. 213, eff. 90 days after March 9, 1996; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2003, c. 184, eff. 90 days after March 7, 2003; Acts 2005, c. 193, eff. 90 days after April 9, 2005; Acts 2006, c. 190, eff. 90 days after March 10, 2006.

Library References

Counties § 114; C.J.S. Counties § 161.
Municipal Corporations § 270; C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.
Public Utilities § 145.
Westlaw Topic Nos. 104, 268, 317A.

Research References

ALR Library

101 ALR 5th 287, Remedies for Sewage Treatment Plant Alleged or Deemed to be Nuisance.

Notes of Decisions

In general 1

Certificate of public convenience and necessity

2.

1. In general

Proposed sewage treatment project complied with buffer zone requirements where all parties acknowledged that distance of proposed sewage lagoons from property owners' home was further than minimum buffer-zone requirement of 300 feet; Public Service Commission relied on ample evidence in record to support claim that proposed location was both cost-effective and

environmentally sound. Code, 16-13A-25, 24-2-11, 24-2-11(a). *Sexton v. Public Service Com'n*, 1992, 423 S.E.2d 914, 188 W.Va. 305. Municipal Corporations § 708.

2. Certificate of public convenience and necessity

Public Service district must obtain certificate of public convenience and necessity before it can acquire or construct public service property. Code, 16-13A-25. *Sexton v. Public Service Com'n*, 1992, 423 S.E.2d 914, 188 W.Va. 305. Public Utilities § 113.

West's
**Annotated Code
of West Virginia**



*Using the Classification and
Numbering System of the
1931 Code of West Virginia,
as Amended*

Chapter 16

2012
Cumulative Annual Pocket Part

Replacing 2011 Pocket Part supplementing 2008 Main Volume

Includes laws through the 2012 First Extraordinary Session

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recovered by the sanitary board of the municipality in a civil action in the name of the municipality.

(j) Any municipality exercising the powers given herein has the authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery or works necessary to comply with the order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board and the authority provided herein to establish, maintain and collect rates, fees or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as the article provides for or requires the issuance of revenue bonds or the imposition of rates, fees and charges in connection with the bonds: *Provided*, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board and the rights, powers and duties of the municipality and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article.

(k) The jurisdiction and authority provided by this section does not extend to highways, road and drainage easements and stormwater facilities constructed, owned or operated by the West Virginia Division of Highways and no rates, fees or charges for stormwater services or costs of compliance may be assessed against highways, road and drainage easements and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

(l) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. § 122.26, has the authority to enact ordinances or regulations which allow for the issuance of orders, the right to enter properties and the right to impose reasonable fines and penalties regarding correction of violations of municipal stormwater ordinances or regulations within the municipal watershed served by the municipal stormwater system, as long as such rules, regulations, fines or actions are not contrary to any rules or orders of the Public Service Commission.

(m) Notice of a violation of a municipal stormwater ordinance or regulation shall be served in person to the alleged violator or by certified mail, return receipt requested. The notice shall state the nature of the violation, the potential penalty, the action required to correct the violation and the time limit for making the correction. Should a person, after receipt of proper notice, fail to correct the violation of the municipal stormwater ordinance or regulation, the municipality may make or have made the corrections of the violation and bring the party into compliance with the applicable stormwater ordinance or regulation. The municipality may collect the costs of correcting the violation from the person by instituting a civil action, as long as such actions are not contrary to any rules or orders of the Public Service Commission.

(n) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

Acts 1955, c. 135; Acts 1967, c. 105; Acts 1994, c. 61; Acts 2001, c. 212, eff. 90 days after April 14, 2001; Acts 2008, c. 202, eff. March 8, 2008.

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section

16-13A-7. Acquisition and operation of district properties.

16-13A-9. Rules; service rates and charges; discontinuance of service; required

Section

water and sewer connections; lien for delinquent fees.

§ 16-13A-7

The board of properties and duty, to maintain activities necessary for improvement of \$25,000 for or replacement as a Class I fifty-nine of section two: publication of extent allow service distribution shall be utilized construction encourage possible. And or be deemed the Constitution derived from bonds issued or supplies for a longer Acts 1953, c. 159, eff. 90 days after June 9, 2001.

§ 16-13A-9

(a)(1) The acquisition, protection and The board which shall to pay the principal of of this article authorized charges may

(A) The consideration

(B) The premises;

(C) The

(D) Any

(E) May

to be fair to the nature charges for easements Division of

(2) When furnished

§ 16-13A-7. Acquisition and operation of district properties

The board of these districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than \$25,000 for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three, chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the Constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years.

Acts 1953, c. 147; Acts 1967, c. 105; Acts 1981, c. 124; Acts 1982, c. 24; Acts 1986, c. 81; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2011, c. 147, eff. June 9, 2011.

§ 16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district. The board shall establish rates, fees and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of the public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds under this article. The schedule of the rates, fees and charges may be based upon:

- (A) The consumption of water or gas on premises connected with the facilities, taking into consideration domestic, commercial, industrial and public use of water and gas;
- (B) The number and kind of fixtures connected with the facilities located on the various premises;
- (C) The number of persons served by the facilities;
- (D) Any combination of paragraphs (A), (B) and (C) of this subdivision; or
- (E) May be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways.

(2) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the

aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of section eight, article three, chapter twenty-four of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or \$50, with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or \$50 and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or \$50. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or \$50 has been remitted to the district. After twelve months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the Public Service Commission may prescribe: *Provided*, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, ten days after the water or gas services become delinquent. *Provided, however*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the board to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(b) In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately water facilities, sewer facilities or stormwater facilities and the district owns and operates another kind of facility either water or sewer, or both, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer, or stormwater service fees and charges: *Provided*, That any contracts entered into by a public service district pursuant to this section shall be submitted to the Public Service Commission for approval. Any public service district which provides water and sewer service, water and stormwater service or water, sewer and stormwater service has the right to terminate water service for delinquency in payment of water, sewer or stormwater bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer or stormwater district is providing water service and the district providing sewer or stormwater service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer or stormwater district that is providing water service, upon the request of the district providing sewer or stormwater service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer or stormwater account: *Provided, however*, That any termination of water service must comply with all rules and orders of the Public Service Commission. *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the Public Service Districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(c) Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the Division of Health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or

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be transported by other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and buildings where there is gravity flow or transportation by any other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code and the houses, dwellings and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the Public Service District Board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump or any other method approved by the Division of Health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the Public Service Commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

(d) Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near the sewer facility and the engineer for the district has certified that the sewer facilities are available to and are adequate to serve the owner, tenant or occupant and sewage will flow by gravity or be transported by other methods approved by the Division of Health from the house, dwelling or building into the sewer facilities, the district may charge, and the owner, tenant or occupant shall pay, the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner, tenant or occupant. Rates and charges for sewage services shall be based upon actual water consumption or the average monthly water consumption based upon the owner's, tenant's or occupant's specific customer class.

(e) The owner, tenant or occupant of any real property may be determined and declared to be served by a stormwater system only after each of the following conditions is met: (1) The district has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. § 122.26; (2) the district's authority has been properly expanded to operate and maintain a stormwater system; (3) the district has made available a stormwater system where stormwater from the real property affects or drains into the stormwater system; and (4) the real property is located in the Municipal Separate Storm Sewer System's designated service area. It is further hereby found, determined and declared that the mandatory use of the stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge and the owner, tenant or occupant shall pay the rates, fees and charges for stormwater services established under this article only after thirty-day notice of the availability of the stormwater system has been received by the owner. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(f) All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, gas facilities or stormwater systems or stormwater management programs are liens on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and municipal taxes. Nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the Public Service Districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill. In addition to the other remedies provided in this section, public service districts are granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer,

§ 16-13A-9

PUBLIC HEALTH PUBL

stormwater or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts: *Provided*, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of the real property, unless the owner has contracted directly with the public service district to purchase the services or facilities.

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three, article eleven, chapter twenty-two of this code, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Department of Environmental Protection, as prescribed by section eleven of said article, is exempt from the provisions of this section.

(h) A public service district which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1989, c. 174; Acts 1994, c. 61; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2003, c. 183, eff. 90 days after March 8, 2003; Acts 2008, c. 202, eff. March 8, 2008; Acts 2010, c. 201, eff. June 11, 2010.

§ 16-13A-15. Bonds may be secured by trust indenture

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A.
§ 77aaa et seq.

ARTICLE 13D

REGIONAL WATER AND WASTEWATER AUTHORITY ACT

§ 16-13D-11. Bonds may be secured by trust indenture

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A.
§ 77aaa et seq.

ARTICLE 13E

COMMUNITY ENHANCEMENT ACT

Section

16-13E-2.

Definitions.

16-13E-4.

Petition for creation or expansion of community enhancement district; petition requirements.

Section

16-13E-10a.

Extension of vesting period for land development plans and plats; approval of phases.

§ 16-13E-2. Definitions

For purposes of this article:

(a) "Assessment bonds" means special obligation bonds or notes issued by a community enhancement district which are payable from the proceeds of assessments.

(b) "Assessment" means the fee, including interest, paid by the owner of real property located within a community enhancement district to pay for the cost of a project or projects

MM 35 602

BEFORE THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA
IN RE: LOGAN COUNTY PUBLIC SERVICE DISTRICT

Be it resolved that the Logan County Commission on its own motion on the *5th May* 1978, hereby proposes the creation of a public service district to be known as the Logan County Public Service District. The territory to be embraced in said public service district is as follows:

All of Logan County;

Excluding, however:

All of the municipality of Logan;
All of the municipality of Chapmanville;
All of municipality of Mann;
All of the Buffalo Creek Public Service District of the Triadelphia Magisterial District of the County of Logan, West Virginia, more fully described as follows: BEGINNING at a point in the Spring Mountain Lookout Tower, said point being in the Boone-Logan County line 4.25 miles, more or less, to a point in the common corner to Boone-Wyoming and Logan County; thence, southeasterly with the meanders of the Wyoming-Logan County line and with the top of Buffalo Mountain 10.65 miles, more or less, to a point in the 37° - 45' meridian line; thence, due West with said 37° - 45' meridian line 8.85 miles, more or less, to a point in the eastern corporate boundary line of City of Mann; thence, due North 1.65 miles, more or less, to a point in the Logan-Triadelphia Magisterial District line; thence northeasterly with the meanders of said Magisterial line 15.95 miles, more or less, to the place of beginning and containing 45.55 square miles (27,870 acres), more or less.

Said territory and said exclusions are more particularly shown by a map of Logan County attached hereto and incorporated as a part hereof and outlined in red.

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The County Commission further proposes that the Big Creek Public Service District heretofore created by Order of the County Court of Logan County on the 3th day of February, 1973, the Cora-Shamrock-Valley View Public Service District created by Order of the County Court of Logan County, on the 3th day of March, 1973, and the Guyan Public Service District heretofore created by Order of the County Court of Logan County on the 19th day of October, 1973, shall be consolidated with and incorporated into the proposed Logan County Public Service District.

The County Commission further Orders that a public hearing shall be held on the creation of said public service district and the date of said hearing shall be June 5, 1973, at 11 o'clock AM, at Logan County Courthouse. It is further Ordered that the necessary and proper legal advertisements and public notices in compliance with Chapter 10, Article 11A, Section 2 shall be held.

ENTERED this the 5th day of May 1973.

[Signature]
James Lambert
[Signature]

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**INVESTIGATION OF THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA
IN THE LOGAN COUNTY PUBLIC SERVICE DISTRICT**

WHEREAS, on the 3rd day of May, 1973, pursuant to Chapter 16, Article 13A, Section 2, of the West Virginia Code the County Commission upon its own motion entered an order proposing the creation of a public service district in Logan County, West Virginia, to be known as the Logan County Public Service District.

WHEREAS, the municipality of West Logan has consented to be included within the boundary of the Logan County Public Service District by a resolution of its city council, which resolution is attached hereto and incorporated as a part hereof.

WHEREAS, pursuant to said motion there was on June 5, 1973, at 10:00 a.m. a'clock there was a public hearing at Room 104, Court House, Logan, West Virginia held in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code with the proper notices of publication and all persons residing in or on or having any interest in property in said proposed district had an opportunity to be heard for and against its creation, of which hearing the County Commission determined that the creation of such public service district was feasible and continued the hearing until the 30th day of June, 1973, at 10:00 a.m. a'clock for further consideration.

WHEREAS, on the 30th day of June, 1973, the public hearing on the creation of the Logan County Public Service District was resumed and the County Commission of Logan County has determined that the creation of a county-wide public service district within Logan County would be conducive

to the preservation of public health, comfort and convenience of said area. Therefore, upon proper action and record the County Commission of Logan County does hereby ORDER the establishment of and does establish and create a public service district under the provisions of Chapter 15, Article 12A, Section 2 of the West Virginia Statutory Code to have all of the powers enumerated in said Chapter and Article. Said public service district shall be known as Logan County Public Service District:

It is further ORDERED that the Logan County Public Service District shall embrace the following territory:

All of Logan County

Excluding, however:

All of the municipality of Logan;
All of the municipality of Chapmansville;
All of the municipality of Hunt;
All of the Buffalo Creek Public Service District of the Triadelphia Registerial District of the County of Logan, West Virginia, more fully described as follows: BEGINNING at a point in the Spring Mountain Lookout Tower, said point being in the Boone-Logan County line; thence, southeasterly with the meanders of said Boone-Logan County line 4.25 miles, more or less, to a point in the common corner to Boone-Monong and Logan County; thence, southeasterly with the meanders of the Monong-Logan County line and with the top of Buffalo Mountain 15.25 miles, more or less, to a point in the 37° - 45' meridian line; thence, due west with said 37° - 45' meridian line 5.25 miles, more or less, to a point in the eastern corporate boundary line of City of Hunt; thence, due north 1.25 miles, more or less, to a point in the Logan-Triadelphia Registerial District line; thence northeasterly with the meanders of said Registerial line 15.25 miles, more or less, to the place of beginning and containing 43.25 square miles (27,575 acres), more or less.

Said territory and said exclusions are more particularly shown by a map of Logan County attached hereto and incorporated as a part hereof and outlined in red.

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It is further ORDERED that the Big Creek Public Service District heretofore created by Order of the County Court of Logan County on the 5th day of February, 1973, the One-Sharrock-Valley New Public Service District created by Order of the County Court of Logan County, on the 5th day of March, 1973, and the Sycan Public Service District heretofore created by Order of the County Court of Logan County on the 19th day of October, 1973, shall be and hereby are consolidated with and incorporated into the Logan County Public Service District.

The establishment and creation of the Logan County Public Service District, embracing the territory above described, shall be effective upon the receipt and filing of a resolution in proper form by the City of Mitchell Heights, whereby the municipality of Mitchell Heights consents to be included within the boundary of the proposed public service district.

Done this the 5th day of June, 1973.

WITNESSES

C. D. Sengstacke
JUDGE

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RESOLUTION

WHEREAS, on the 2th day of May, 1972, the County Commission of Logan County will consider proposing the creation of a public service district within Logan County, to be known as the Logan County Public Service District, and to include the following territory:

All of Logan County,

Excluding, however:

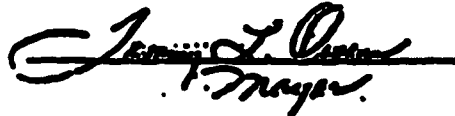
All of the municipality of Logan;
All of the municipality of Chapmanville;
All of the municipality of Ross and
All of the Buffalo Creek Public Service District of the Triadelphia
Registral District of the County of Logan, West Virginia.

WHEREAS, the municipality of West Logan cannot be included within the boundaries of this proposed public service district without the consent;

WHEREAS, the City Council of West Logan believes that the proposed public service district will be conducive to the preservation of the public health, comfort and convenience of the municipality of West Logan and all of Logan County;

THEREFORE, BE IT RESOLVED that the municipality of West Logan does hereby consent to be included within the boundaries of the proposed public service district.

Dated this 14th day of April, 1972.


James L. Quinn
Mayor

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RESOLUTION

WHEREAS, on the 7 day of February, 1973, the County Commission of Logan County will consider proposing the creation of a public service district within Logan County, to be known as the Logan County Public Service District, and to include the following territory:

All of Logan County;

Excluding, however:

All of the municipality of Logan;

All of the municipality of Chapmanville;

All of the municipality of Hunt and

All of the Buffalo Creek Public Service District of the Philadelphia Magisterial District of the County of Logan, West Virginia.

WHEREAS, the municipality of Mitchell Heights cannot be included within the boundaries of this proposed public service district without its consent;

WHEREAS, the City Council of Mitchell Heights believes that the proposed public service district will be conducive to the preservation of the public health, comfort and convenience of the municipality of Mitchell Heights and all of Logan County;

WHEREFORE, **BE IT RESOLVED** that the municipality of Mitchell Heights does hereby consent to be included within the boundaries of the proposed public service district, subject to and upon the following conditions:

RESOLUTION

WHEREAS, on the 5th day of April, 1934 the County Commission of Logan County, West Virginia passed a resolution proposing the enlargement of the Logan County Public Service District to include the following territory in Wyoming County:

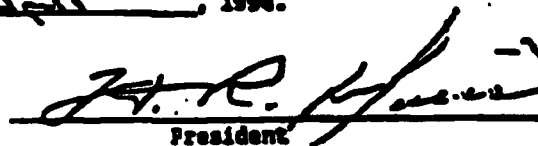
Beginning at a point at the Logan and Wyoming County line at its intersection with West Virginia Route 10; thence, following said Logan and Wyoming line in a northwesterly direction approximately 6,400 feet, more or less, on said County line; thence, following the meanders of the Logan and Wyoming County line in a northwesterly direction approximately 28,000 feet, more or less, to a point located at the intersection of the Logan, Wyoming and Boone County lines; thence, following the Wyoming and Boone County line in a southeasterly direction approximately 14,200 feet to a point on Huff Mountain having an elevation of 3,177 feet M.S.L.; thence, on a straight line in a southwesterly direction approximately 19,800 feet to a point known as Panther Knob; thence, on a straight line in a westerly direction approximately 10,400 feet, more or less, to a point known as Upper Gap; thence, on a straight line in a southwesterly direction approximately 14,000 feet to a point located at the intersection of the Logan and Wyoming County lines; thence, following the Logan and Wyoming County line in a northwesterly direction approximately 19,600 feet, more or less, to the point of beginning.

WHEREAS, this territory is not included within the boundaries of any existing Public Service District:

WHEREAS, the County Commission of Wyoming County, West Virginia believes that the inclusion of the afore-described territory in the Logan County Public Service District will be conducive to the preservation of the public health, comfort and convenience of the residents of this area of Wyoming County;

THEREFORE, BE IT RESOLVED that the County Commission of Wyoming County, West Virginia, does hereby consent to the enlargement of Logan County Public Service District to include the above described territory.

Dated this 7th day of April, 1934.


President

**IN THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA
RE: ENLARGEMENT OF LOGAN COUNTY PUBLIC SERVICE DISTRICT**

WHEREAS, on the 5th day of April, 1994, pursuant to Chapter 16, Article 13A, Section 2, of the West Virginia Code the County Commission of Logan County, West Virginia, upon its own motion entered an order proposing the enlargement of Logan County Public Service District into the Huff Creek area of Wyoming County, West Virginia.

WHEREAS, the County Commission of Wyoming County, West Virginia has consented to have the Huff Creek area included within the boundary of the Logan County Public Service District by resolution, which is attached and incorporated as part hereof.

WHEREAS, pursuant to said motion there was on May 5, 1994 at 6:00 p.m. o'clock there was a public hearing at Room 104 of the Logan County Courthouse, Logan, West Virginia held in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code with the proper notices of publication and all persons residing in or on or having any interest in property in said proposed additional territory had an opportunity to be heard for and against its enlargement at which hearing the County Commission of Logan County, West Virginia determined that the enlargement of Logan County Public Service District to include the Huff Creek area of Wyoming County, West Virginia was feasible and would be conducive to the preservation of public health, comfort and convenience of said area. Therefore, upon proper motion and second the County Commission of Logan County, West Virginia does hereby ORDER the enlargement of and does enlarge the Logan County Public Service District under the provisions of Chapter 16, Article 13A, Section 2 of the West Virginia Code to have all of the powers enumerated in said Chapter and Article. Said public service district shall continue to be known as Logan County Public Service District.

It is further ORDERED that the area or portion of Wyoming County to be included in the Logan County Public Service District is as follows:

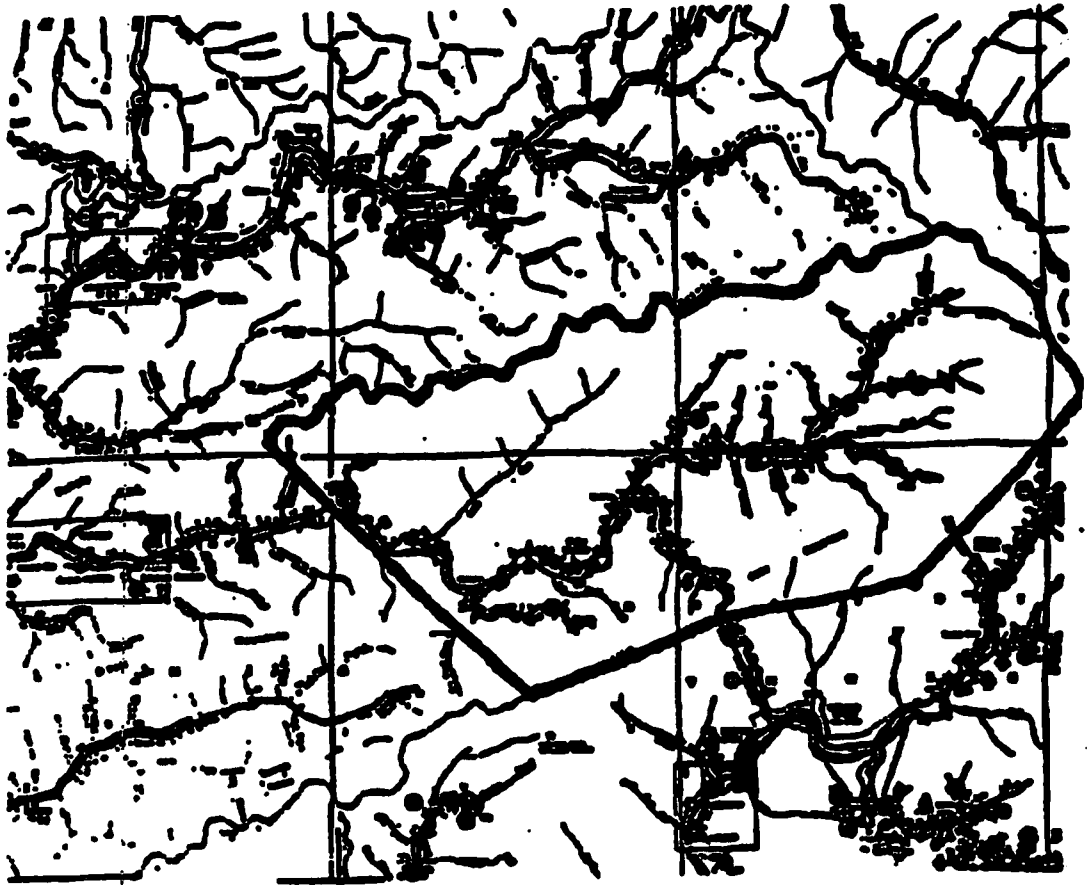
Beginning at a point at the Logan and Wyoming County line at its intersection with West Virginia Route 10; thence, following said Logan and Wyoming line in a northwesterly direction approximately 6,400 feet, more or less, on said County line; thence, following the meanders of the Logan and Wyoming County line in a northeasterly direction approximately 58,000 feet, more or less, to a point located at the intersection of the Logan, Wyoming and

Boone County lines; thence, following the Wyoming and Boone County line in a southeasterly direction approximately 14,200 feet to a point on Huff Mountain having an elevation of 3,177 feet N.S.L.; thence, on a straight line in a southwesterly direction approximately 19,800 feet to a point known as Panther Knob; thence, on a straight line in a westerly direction approximately 10,400 feet, more or less, to a point known as Upper Gap; thence, on a straight line in a southwesterly direction approximately 14,000 feet to a point located at the intersection of the Logan and Wyoming County lines; thence, following the Logan and Wyoming County line in a northwesterly direction approximately 19,600 feet, more or less, to the point of beginning. Said territory is more particularly shown on a map attached hereto and incorporated as a part hereof and outline in black.

The enlargement of Logan County Public Service District as ordered herein shall be effective on the date of the Final Order issued by the Public Service Commission of West Virginia.

ENTERED this 5th day of May, 1934.


Mark S. Spurlock, H.D., PRESIDENT
LOGAN COUNTY COMMISSION



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99-6

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

FINAL

10-18-94

Entered: September 22, 1994

CASE NO. 94-0403-PWD-PC

**LOGAN COUNTY COMMISSION and
WYOMING COUNTY COMMISSION**

**Petition to expand boundaries of
Logan County Public Service District
into the Huff Creek area of Wyoming County.**

RECOMMENDED DECISION

On May 6, 1994, the Logan and Wyoming County Commissions filed with the Public Service Commission (Commission) a petition to approve the extension of the boundaries of the Logan County Public Service District into the Huff Creek area of Wyoming County, accompanied by documentation of the procedures followed by the Logan and Wyoming County Commissions, including a May 3, 1994, Order of the Logan County Commission expanding the boundaries.

On June 16, 1994, Staff Attorney Ronald E. Robertson, Jr., filed the Initial and Final Joint Staff Memorandum, with an attached memorandum from Robert M. Hubbard, Senior Utilities Analyst for the Public Service District Division of the Commission. Mr. Robertson stated that the boundary expansion will extend only into the Huff Creek area of Wyoming County. He further stated that, after approval of the expansion by the Wyoming County Commission, public hearing was held in Logan, West Virginia, on May 3, 1994, with notice posted and published in both Logan and Wyoming Counties. Mr. Robertson opined that the Logan and Wyoming County Commissions have substantially complied with the requirements of W.Va. Code §16-13A-2 and stated that Staff recommends approval of the expansion. Mr. Hubbard's memorandum stated that the expansion is necessary to provide water service to potential customers along West Virginia Route 10 in the Huff Creek area and will not conflict with any other public service district territories.

On June 27, 1994, the Commission issued an Order referring this matter to the Division of Administrative Law Judges (ALJ Division) for decision to be issued no later than December 7, 1994.

On July 14, 1994, the undersigned ALJ issued a Procedural Order stating that, under Code §16-13A-2, the Commission is required to provide a hearing "in the affected county" any time a county commission petitions to expand the boundaries of a public service district. The undersigned ALJ accordingly scheduled this matter for hearing on September 8, 1994, at 10:30 a.m. in the County Commissioners' Courtroom, Wyoming County Court-house, Pinchville, West Virginia, and at 2:30 p.m. in Courtroom No. 2, Room

307, Logan County Courthouse, Logan, West Virginia. Also ordered was publication of the Notice of Hearing in newspapers duly qualified by the Secretary of State, published and of general circulation in Logan and Wyoming Counties.

The bifurcated hearing was held as scheduled. Mr. Robertson appeared on behalf of Staff and submitted into evidence as Staff Ex. 1 the Initial and Final Joint Staff Memorandum. Mr. Hubbard was also present. James A. Walker, Esq., appeared on behalf of the Logan County Public Service District, and called the only witness, Charles R. Roberts, Jr., the Managing Engineer for the Logan County Public Service District, who made the following statement:

The Logan County Public Service District has a water treatment facility located in Greenville and the attached distribution system comes very near the proposed area that the enlargement's going to cover. It is also in the same drainage as the existing system.

The Logan County Public Service District approached the Wyoming County Commission to enlarge its boundaries into that area so that that system could be extended into Wyoming County.

The capacity is present. It was designed with the Wyoming County area in mind. The Logan County Public Service District and the Wyoming County Commission both feel that this will be the most -- the quickest way to get water to the residents in the area to be included in the Logan County PSD.

(Tr. 5-6). Submitted into evidence as Logan Ex. 1 and 2, respectively, were affidavits of publication establishing that the Notice of Hearing was published on August 24, 1994, in the Independent Herald of Pineville, and on August 29, 1994, in The Logan Banner. No protestants appeared at hearing.

The transcript was filed on September 14, 1994.

FINDINGS OF FACT

1. The Logan and Wyoming County Commissions petitioned the Public Service Commission to approve an extension of the boundaries of the Logan County Public Service District into the Huff Creek area of Wyoming County, providing documentation of the procedures followed by the Logan and Wyoming County Commissions, including a May 5, 1994, Order of the Logan County Commission so expanding the boundaries. (See petition filed May 6, 1994).

2. Commission Staff recommended approval of the proposed expansion. (See Staff Exhibit 1).

3. Notice of Hearing was published on August 24, 1994, in the Independent Herald of Pineville, and on August 29, 1994, in The Logan Banner. (See Logan Exhibit 1 and 2).

4. No protestants appeared at the public hearing held on September 8, 1994, in Pineville and Logan, West Virginia. (Tr. 4, 10).

CONCLUSION OF LAW

Since a public hearing was held in Wyoming and Logan Counties on the petition filed by the Wyoming and Logan County Commissions and no one appeared at hearing to make protest to the petition, after proper publication was made, and since Staff has recommended granting the petition to expand the boundaries of the Logan County Public Service District into the Huff area of Wyoming County, it is determined that said petition should be granted as an unprotested case.

ORDER

IT IS, THEREFORE, ORDERED that the petition of the Wyoming and Logan County Commission, filed on May 6, 1994, to expand the boundaries of the Logan County Public Service District into the Huff Creek area of Wyoming County be, and it hereby is, granted, and the May 5, 1994, order of the Logan County Commission authorizing such expansion be, and it hereby is, approved.

IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.


Sunya Anderson
Administrative Law Judge

SA:mal

RESOLUTION

WHEREAS, on the 8th day of October, 1994, the County Commission of Logan County, West Virginia adopted an order proposing the enlargement of Logan County Public Service District to include the following territory in Lincoln County as further identified on the attached map:

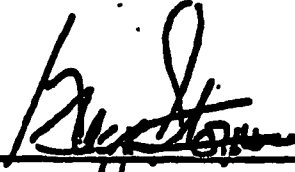
Beginning at a point at the intersection of the Lincoln, Wayne and Mingo County lines; thence, following said Lincoln and Mingo County line in a northeasterly direction approximately 34,888 feet, more or less to its intersection with the Logan County line; thence, following said Lincoln and Logan County line in a northeasterly direction approximately 64,490 feet, more or less to its intersection with the Boone County line; thence following said Lincoln and Boone County line in a northeasterly direction approximately 8,978 feet, more or less, to a point located on the eastern extreme of said county line; thence, following said Lincoln and Boone County line in a northwesterly direction approximately 39,600 feet, more or less, to a point having a latitude of N. 38° 05' located on said county line; thence, following a straight line due west approximately 13, 790 feet, more or less, to a point having a latitude of N. 38° 05' and a longitude of W. 82° 05'; thence, following a straight line in a southwesterly direction approximately 23,760 feet, more or less, to a point on West Virginia Route 10 at the top of Fourteen Mile Mountain; thence, following a straight line in a southwesterly direction approximately 13,300 feet, more or less, to a point on the Lincoln and Wayne County line located on said line approximately 3,000 feet north of its intersection with County Route 60; thence, following said Lincoln and Wayne County line in a southeasterly direction approximately 51,730 feet, more or less, to the point of beginning.

WHEREAS, previously on the 8th day of October, 1994, the County Commission of Lincoln County, West Virginia, adopted an order dissolving the Ranger-Harts Public Service District. THEREFORE, the area of Lincoln County to be included in Logan County Public Service District is not included within the boundaries of any existing Public Service District;

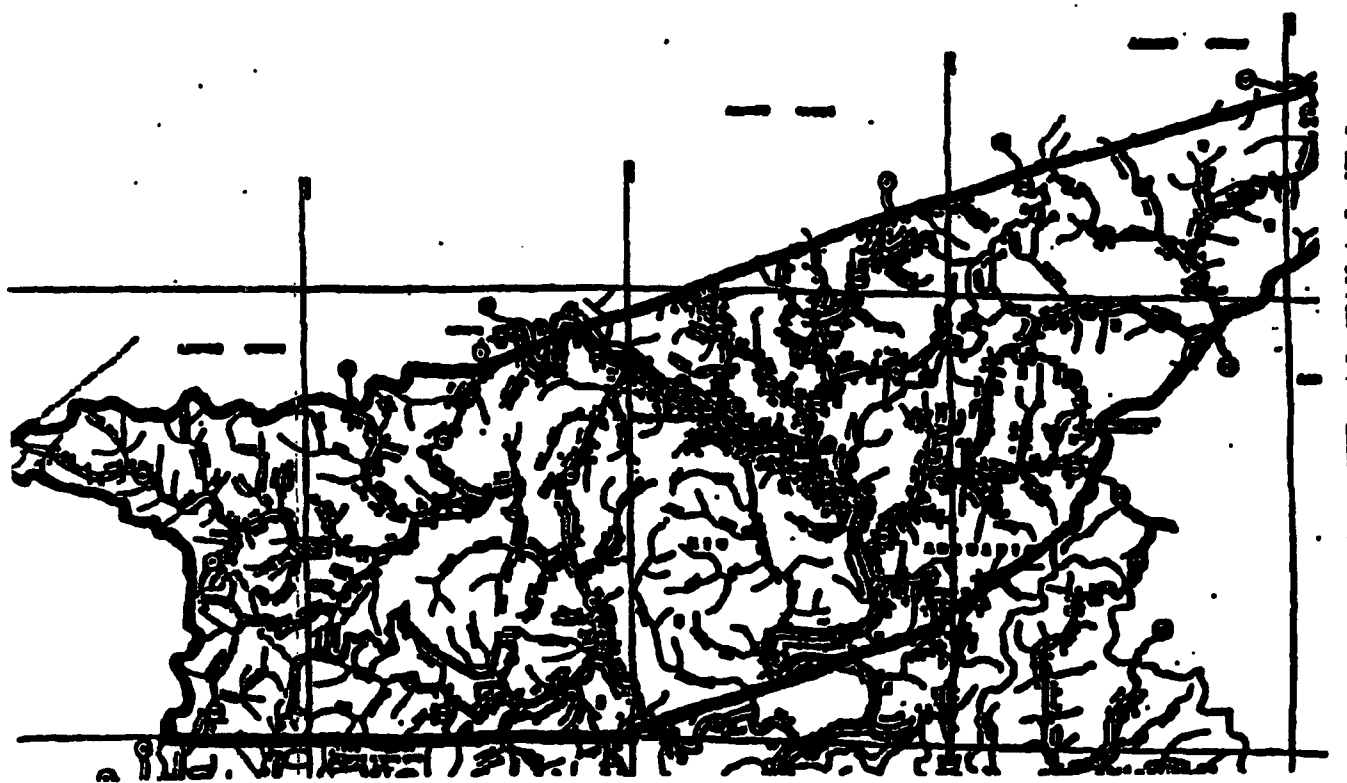
WHEREAS, the County Commission of Lincoln County, West Virginia believes that the inclusion of the afore-described territory in the Logan County Public Service District will be conducive to the preservation of the public health, comfort and convenience of the residents of this area of Lincoln County;

WHEREFORE, BE IT RESOLVED that the County Commission of Lincoln County, West Virginia, does hereby consent to the enlargement of Logan County Public Service District to include the above described territory.

Dated this 6th day of October, 1994.



President, Lincoln County Commission



**IN THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA
RE: ENLARGEMENT OF LOGAN COUNTY PUBLIC SERVICE DISTRICT**

WHEREAS, on the 5th day of October, 1934, pursuant to Chapter 16, Article 13A, Section 2, of the West Virginia Code the County Commission of Logan County, West Virginia, upon its own motion entered an order proposing the enlargement of Logan County Public Service District into the Southern portion of Lincoln County, West Virginia.

WHEREAS, the County Commission of Lincoln County, West Virginia has consented to have this area included within the boundary of the Logan County Public Service District by resolution, which is attached and incorporated as part hereof.

WHEREAS, pursuant to said motion there was on October 7, 1934, at 6:00 p.m. o'clock there was a public hearing at Room 104 of the Logan County Courthouse, Logan, West Virginia held in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code with the proper notices of publication and all persons residing in or on or having any interest in property in said proposed additional territory had an opportunity to be heard for and against its enlargement at which hearing the County Commission of Logan County, West Virginia determined that the enlargement of Logan County Public Service District to include the southern portion of Lincoln County, West Virginia was feasible and would be conducive to the preservation of public health, comfort and convenience of said area. Therefore, upon proper motion and second the County Commission of Logan County, West Virginia does hereby **ORDER** the enlargement of and does enlarge the Logan County Public Service District under the provisions of Chapter 16, Article 13A, Section 2 of the West Virginia Code to have all of the powers enumerated in said Chapter and Article. Said public service district shall continue to be known as Logan County Public Service District

It is further **ORDERED** that the area or portion of Lincoln County to be included in the Logan County Public Service District is as follows:

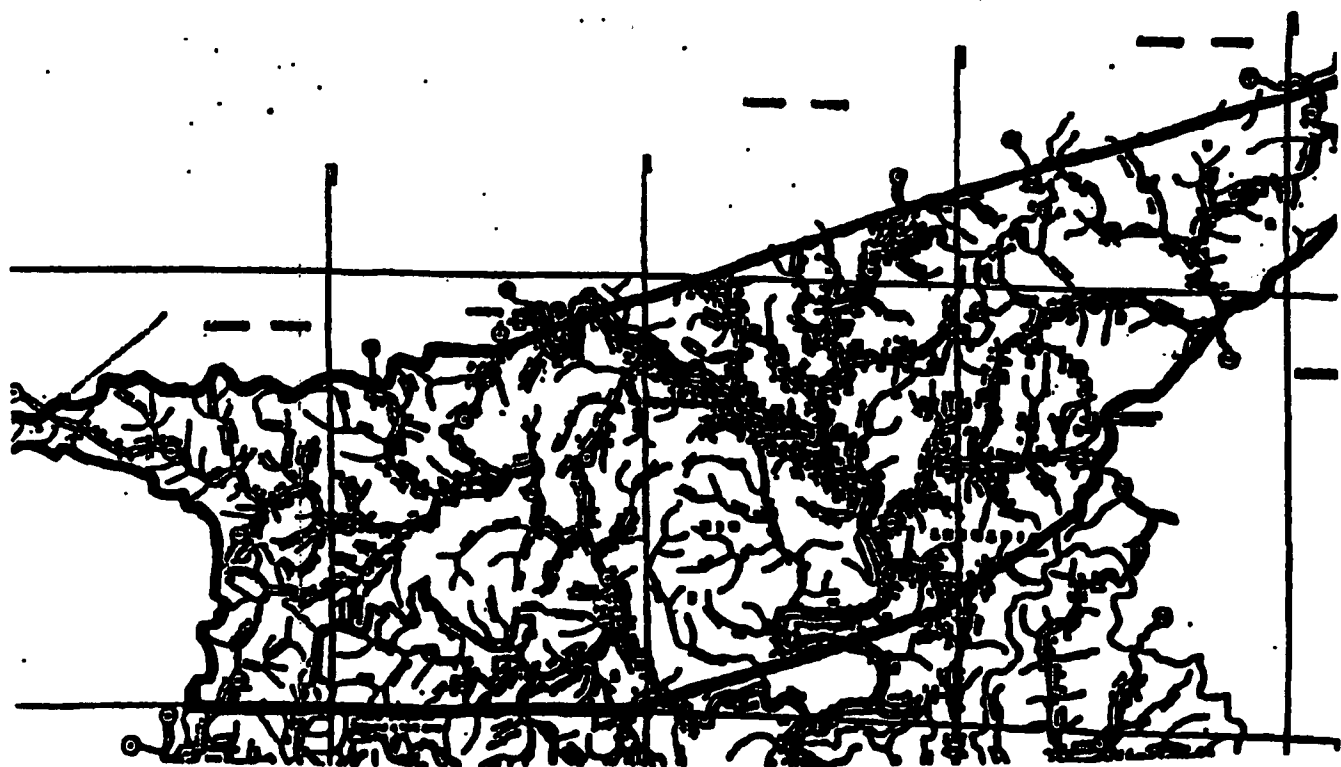
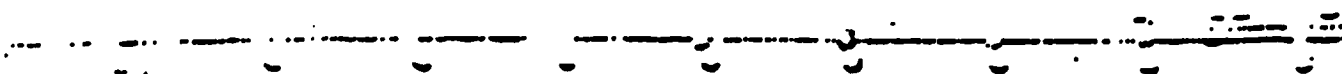
Beginning at a point at the intersection of the Lincoln, Wayne and Mingo County lines, thence, following said Lincoln and Mingo County line in a northeasterly direction approximately 34, 850 feet, more or less to its intersection with the

Logan County line; thence, following said Lincoln and Logan County line in a northeasterly direction approximately 84,458 feet, more or less, to its intersection with the Boone County line; thence, following said Lincoln and Boone County line in a northeasterly direction approximately 8,970 feet, more or less, to a point located on the eastern extreme of said county line; thence, following said Lincoln and Boone County line in a northwesterly direction approximately 39,600 feet, more or less, to a point having a latitude of N. 38° 05' located on said county line; thence, following a straight line due west approximately 33,788 feet, more or less, to a point having a latitude of N. 38° 05' and a longitude of W. 82° 05'; thence, following a straight line in a southwesterly direction approximately 23,768 feet, more or less, to a point on West Virginia Route 10 at the top of Fourteen Mile mountain; thence, following a straight line in a southwesterly direction approximately 13,308 feet, more or less, to a point on the Lincoln and Wayne County line located on said line approximately 5,000 feet north of its intersection with County Route 68; thence, following said Lincoln and Wayne County line in a southeasterly direction approximately 51,750 feet, more or less, to the point of beginning.

The enlargement of Logan County Public Service District as ordered herein shall be effective on the date of the Final Order issued by the Public Service Commission of West Virginia.

ENTERED this 7th day of November, 1934.

Mark S. Sparlock
 MARK S. SPARLOCK, A.D., PRESIDENT
 LOGAN COUNTY COMMISSION



ORIGINAL

ENTERED
OFF

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
5-3-95

Entered: April 13, 1995

CASE NO. 94-0889-FWD-PC

LINCOLN COUNTY COMMISSION,
Hamlin, Lincoln County.
Petition to dissolve Ranger-Harts
Public Service District.

CASE NO. 94-1065-FWD-PC

LOGAN COUNTY COMMISSION,
Logan, Logan County.
Petition to expand boundaries of
Logan County Public Service District
into Harts Creek area of Lincoln County.

RECOMMENDED DECISION

Case No. 94-0889-FWD-PC

On October 10, 1994, the Lincoln County Commission filed a petition requesting approval by the Public Service Commission (Commission) to dissolve the Ranger-Harts Public Service District (Ranger-Harts PSD). Included in the documentation was an October 6, 1994 order of the Lincoln County Commission authorizing dissolution of the Ranger-Harts Public Service District.

On December 16, 1994, Staff Attorney Ronald E. Robertson, Jr., filed the Initial and Final Joint Staff Memorandum, with attached memorandum from Charles Knurek, Utility Financial Analyst, Public Service District Division of the Commission. Mr. Knurek stated that the Lincoln County Commission informed him that the Ranger-Harts PSD is inactive, does not own or operate any existing facilities, and does not have any existing board members. Mr. Robertson stated that the dissolution of the Ranger-Harts PSD would provide the Logan County Public Service District (Logan County PSD) the opportunity to expand into the service area of the Ranger-Harts PSD, which is the subject of Case No. 94-1065-FWD-PC. Mr. Robertson further stated that it is the view of the Commission Staff that the Lincoln County Commission has substantially complied with the requirements of W.Va. Code §16-13A-2, and, therefore, Commission Staff recommends approval of the petition for dissolution, contingent upon hearing in Lincoln County. Finally, Mr. Robertson recommended that this

matter and Case No. 94-1065-FWD-PC be consolidated and heard together because of the related issues they involve.

Case No. 94-1065-FWD-PC

On November 9, 1994, the Logan County Commission filed a petition requesting the Commission's approval for enlarging the boundaries of the Logan County PSD into the southern portion of Lincoln County generally referred to as the Harts Creek area. Included in the documentation was an Order 3, 1994 Order of the Logan County Commission proposing the enlargement and an October 6, 1994 Order of the Lincoln County Commission accepting the proposed enlargement.

On December 20, 1994, Mr. Robertson filed the Initial Joint Staff Memorandum, with attached memorandum from Mr. Knurek. Commission Staff stated that it was reviewing this matter, and, upon completion of its review, would make its final recommendation. Finally, Mr. Robertson recommended consolidation of this matter with Case No. 94-0889-FWD-PC.

On January 11, 1995, Mr. Robertson filed an Initial and Final Joint Staff Memorandum, with attached memorandum from Mr. Knurek. Mr. Robertson stated that it is the view of Commission Staff that the Logan County Commission has substantially complied with the requirements of Code §16-13A-2 and that hearing should be held in Logan County or in both Logan and Lincoln Counties.

Case Nos. 94-0889-FWD-PC and 94-1065-FWD-PC

On December 27, 1994, the Commission issued an Order Consolidating and Referring, consolidating the two cases and referring them to the Division of Administrative Law Judges (ALJ Division) for decision on or before June 7, 1995.

On January 18, 1995, the undersigned ALJ issued a Procedural Order scheduling these matters for hearing on March 7, 1995, at 10:30 a.m. in the County Commissioners' Courtroom, Lincoln County Courthouse, Hamlin, West Virginia, and at 1:00 p.m. in the County Commissioners' Courtroom, Logan County Courthouse, Logan, West Virginia. It was also ordered that the Lincoln County Commission cause to be published for public legal notice a copy of an attached Notice of Hearing once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Lincoln County, West Virginia, and that the Logan County Commission cause to be published for public legal notice a copy of the attached notice once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Logan County, West Virginia. Publication was required to be not more than twenty days and not less than five days prior to the date of hearing, with the date of publication counting as the first day.

On January 20, 1995, the undersigned ALJ issued a Procedural Order that, due to a typographical error on the notice attached to the January 18, 1994, order, substituted a corrected Notice of Hearing. The Petitioners were advised that the publication requirements of the prior order applied to the publication of the revised notice.

On March 6, 1995, Rick Roberts, Managing Engineer for the Logan County Public Service District, filed affidavits of publication establishing that the revised Notice of Hearing was published on February 22, 1995, in The Lincoln Journal and The Logan Banner.

Hearing was held as scheduled. Appearing at hearing in Hamlin, Lincoln County, was Mr. Robertson, representing Commission Staff, and making appearances for the petitioners were Mr. Roberts and members of the Lincoln County Commission, Doug Waldron, Buster Stowers, and Paul Duncan, President. Entered into the record were the affidavits of publication in The Lincoln Journal (Petitioner No. 1) and The Logan Banner (Petitioner No. 2) and Commission Staff's Initial and Final Joint Staff Memorandum in Case No. 94-0089-FWD-PC (Staff No. 1). Appearing at hearing in Logan, Logan County, were Mr. Robertson and Mr. Roberts, and entered into the record was the Commission Staff's Initial and Final Joint Staff Memorandum in Case No. 94-1065-FWD-PC (Staff No. 2). No protestant appeared at either segment of hearing. (Tr. 5-6).

On March 21, 1994, the transcript of hearing was filed.

FINDINGS OF FACT

1. On October 10, 1994, the Lincoln County Commission filed a petition requesting approval by the Commission to dissolve the Ranger-Harts Public Service District, with an attached October 6, 1994 order of the Lincoln County Commission authorizing dissolution of the Ranger-Harts Public Service District. (See petition).

2. On November 9, 1994, the Logan County Commission filed a petition requesting the approval by the Commission to enlarge the boundaries of the Logan County Public Service District into the southern portion of Lincoln County generally referred to as the Harts Creek area, with an attached October 5, 1994 order of the Logan County Commission proposing the enlargement and an October 6, 1994 order of the Lincoln County Commission accepting the proposed enlargement. (See petition).

3. The cases were consolidated by the Commission because the area of expansion of the Logan County Public Service District would consist of most of the area presently within the boundaries of the Ranger-Harts Public Service District, plus some area outside the service area of any utility. (See Commission order of December 27, 1994; Staff Exhibit 1).

4. Commission Staff recommended approval of the petitions. (See Staff Exhibits 1 and 2).

5. Notice of hearing was published on February 22, 1995, in The Lincoln Journal and The Logan Banner and no protestant to either petition appeared at hearing held on March 7, 1995 in Hamlin, Lincoln County, and Logan, Logan County. (See Tr. 5-6).

CONCLUSION OF LAW

Since a public hearing was held in Lincoln and Logan Counties on the petition filed by the Lincoln County Commission to dissolve the Ranger-Harts Public Service District and on the petition filed by the Logan County Commission to expand the boundaries of the Logan County Public Service District into the Harts Creek area of Lincoln County and no one appeared at hearing to make protest to the petitions, after proper publication was made, and since Commission Staff has recommended granting said petitions, it is determined that said petitions should be granted as unopposed cases.

ORDER

IT IS, THEREFORE, ORDERED that the petitions of the Lincoln County Commission and the Logan County Commission filed, respectively, on October 10, 1994, and November 9, 1994, be, and they hereby are, granted, and the October 3 and 6, 1994 orders of said County Commissions authorizing the dissolution of the Ranger-Harts Public Service District and the expansion of the boundaries of the Logan County Public Service District into the Harts Creek area of Lincoln County be, and they hereby are, approved.

IT IS FURTHER ORDERED that these matters be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.


Steve Anderson
Administrative Law Judge

SA:mal

RESOLUTION

WHEREAS, on the 5th day of September, 1997, the County Commission of Logan County, West Virginia adopted an ordinance proposing the enlargement of Logan County Public Service District to include the following territory in Mingo County as further identified on the attached map marked as Exhibit A:

Beginning at a point in the Logan County/Mingo County community of Verner at the intersection of the midpoint of the Guyandotte River and the Logan and Mingo County line, thence, following the meanderings of said Logan and Mingo County line in a easterly direction approximately 14,500 feet, more or less, to a point on top of Verner Mountain, said point having an elevation of 2,426 M.S.L., thence, following a straight line in a south, southwesterly direction approximately 4,000 feet, more or less, to a point on the ridgeline separating the Spice Creek and Leatherwood Creek drainages at its intersection with Mingo County Route 12, thence, following a straight line due west approximately 11,900 feet, more or less, to a point in the center of the Guyandotte River, thence, following the midpoint of the Guyandotte River downstream in a northerly direction approximately 7,200 feet, more or less, to a point in the center of the Guyandotte River located approximately 2,500 feet, more or less, upstream of the confluence of Sylvia Branch and the Guyandotte River, thence, following a straight line in a west, northwesterly direction approximately 5,940 feet, more or less, to a point atop a mountain peak having an elevation of 1,850 feet M.S.L., thence, following a straight line due north approximately 3,340 feet, more or less, to the point of intersection of said line with the Logan and Mingo County line, thence, following the meanderings of said Logan and Mingo County line in a easterly direction approximately 15,000 feet, more or less, to the point of beginning.

WHEREAS, previously on the 1st day of October, 1997, County Commission of Mingo County, West Virginia, adopted an order reducing the size of the Mingo County Public Service District by deleting the above described territory in Mingo County as further identified on the attached map marked as Exhibit A from the Mingo County Public Service District. THEREFORE, the area of Mingo County to be included in Logan County Public Service District is included within the boundaries of any existing Public Service District; and,

WHEREAS, the County Commission of Mingo County, West Virginia believes that the inclusion of the afore-described territory in the Logan County Public Service District will be conducive to the preservation of the public health, comfort and convenience of the residents of this area of Mingo County;

THEREFORE, BE IT RESOLVED that the County Commission of Mingo County, West Virginia, does hereby consent to the enlargement of Logan County Public Service District to include the above described territory.

Dated this 1st day of October, 1997.

MINGO COUNTY COMMISSION


Mr. Larry Clabe, President


Mr. Curtis Fletcher, Commissioner


Mr. Jim Hatfield, Commissioner



**IN THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA
RE: ENLARGEMENT OF LOGAN COUNTY PUBLIC SERVICE DISTRICT**

WHEREAS, on the 5th day of September, 1997, pursuant Chapter 16, Article 13A, Section 2, of the West Virginia Code 1931, as amended, the County Commission of Logan County, West Virginia, upon its own motion entered an order proposing enlargement of Logan County Public Service District into the Verner and Spice Creek areas of Mingo County, West Virginia; and,

WHEREAS, the County Commission of Mingo County, West Virginia has consented to have this area included within the boundary of Logan County Public Service District by resolution, which attached hereto, and incorporated as part hereof; and,

WHEREAS, pursuant to said motion, on October 6, 1997 at 6 o'clock p.m. there was a public hearing at Room 104 of the Logan County Courthouse, Logan, West Virginia, held in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code 1931, as amended, with the proper notices of publication and a persons residing in or on or having any interest in property said proposed additional territory had an opportunity to be heard for and against its enlargement at which hearing the County Commission of Logan County, West Virginia, determined that the enlargement of Logan County Public Service District to include the Verner and Spice Creek areas of Mingo County, West Virginia was feasible and would be conducive to the preservation of public health, comfort and convenience of said area. Therefore, upon proper motion and second the County Commission of Logan County, West Virginia, does hereby **ORDER** the enlargement of and does enlarge the Logan County Public Service District under the provisions of Chapter 16, Article 13A, Section 2 of the West Virginia Code of 1931, as amended, to have all of the powers enumerated in said Chapter and Article. Said Public Service District shall continue to be known as Logan County Public Service District.

It is further **ORDERED** that the area or portion of Mingo County to be included in the Logan County Public Service District is a

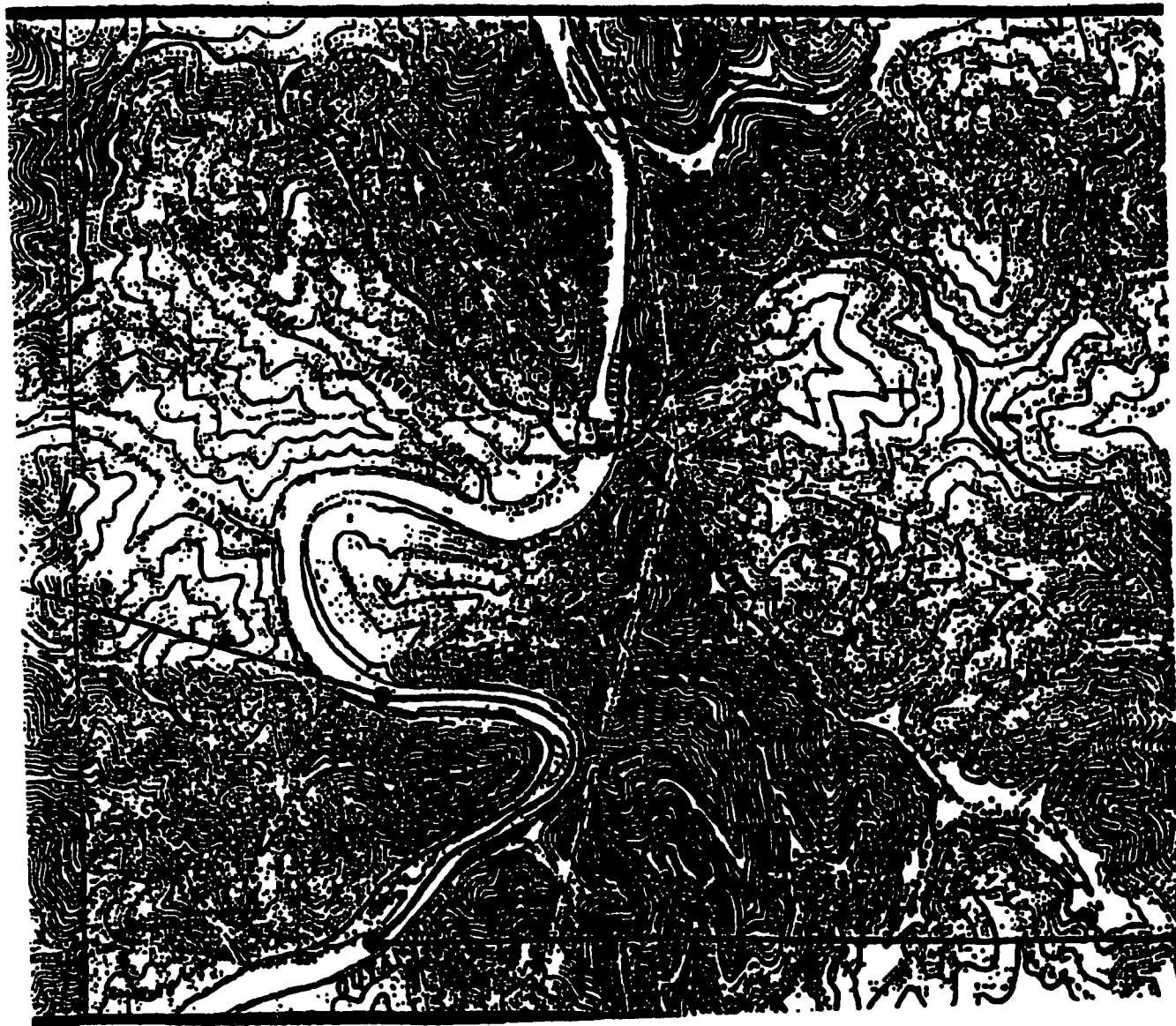
follows:

Beginning at a point in the Logan County/Mingo County community of Verner at the intersection of the midpoint of the Guyandotte River and the Logan and Mingo County line, thence, following the meanderings of said Logan and Mingo County line in a easterly direction approximately 14,500 feet, more or less, to a point on top of Verner Mountain, said point having an elevation of 2,426 M.S.L., thence, following a straight line in a south, southwesterly direction approximately 4,000 feet, more or less, to a point on the ridgeline separating the Spice Creek and Leatherwood Creek drainages at its intersection with Mingo County Route 12, thence, following a straight line due west approximately 11,900 feet, more or less, to a point in the center of the Guyandotte River, thence, following the midpoint of the Guyandotte River downstream in a northerly direction approximately 7,200 feet, more or less, to a point in the center of the Guyandotte River located approximately 2,500 feet, more or less, upstream of the confluence of Sylvia Branch and the Guyandotte River, thence, following a straight line in a west, northwesterly direction approximately 5,940 feet, more or less, to a point atop a mountain peak having an elevation of 1,850 feet M.S.L., thence, following a straight line due north approximately 3,340 feet, more or less, to the point of intersection of said line with the Logan and Mingo County line, thence, following the meanderings of said Logan and Mingo County line in a easterly direction approximately 15,000 feet, more or less, to the point of beginning.

The enlargement of Logan County Public Service District a. ordered herein shall be effective on the date of the Final Order approving the enlargement being issued by the Public Service Commission of West Virginia.

ENTERED this 6th day of October, 1997.


Arthur E. Kirkendoll, President
LOGAN COUNTY COMMISSION



**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

Entered: March 13, 1998

FINAL

4-2-98

CASE NO. 97-1344-PWD-PC

MINGO COUNTY COMMISSION

Petition to reduce the area of
the Mingo County Public Service
District.

CASE NO. 97-1370-PWD-PC

LOGAN COUNTY COMMISSION

Petition for approval of expansion into
the Verner and Spice Creek areas of
Mingo County.

RECOMMENDED DECISION

PROCEDURE

On October 3, 1997, the Logan County Public Service District filed a formal petition on behalf of the Mingo County Commission to reduce the territory of the Mingo County Public Service District, which was designated as Case No. 97-1344-PWD-PC.

On October 8, 1997, the Logan County Public Service District filed a formal petition on behalf of the Logan County Commission to enlarge the territory of the Logan County Public Service District to include the areas of Mingo County which were being withdrawn from the territory of Mingo County Public Service District in Case No. 97-1344-PWD-PC. This second petition was designated as Case No. 97-1370-PWD-PC. Both the Mingo and Logan County petitions included materials which detailed the process which the Mingo County and Logan County Commissions utilized to enact the respective boundary changes and both petitions requested that the Public Service Commission consolidate the two cases.

Memo
The territory to be withdrawn from the Mingo County Public Service District and added to the Logan County Public Service District encompasses the area of the pending Elk Creek, Verner and Spice Creek water project of the Logan County Public Service District. An application for a

certificate of convenience and necessity for this project was filed on November 21, 1997, and has been designated as Case No. 97-1326-PWD-CN on the Commission's docket. Pursuant to a Commission Order entered November 21, 1997, a Notice of Filing in that certificate case was published for public legal notice in both Logan and Mingo Counties on December 10, 1997, and as of the date of this Recommended Decision, no statements of protest or objection to the project or rates have been received by the Commission.

By a Commission Referral Order entered October 27, 1997, these cases were restyled to conform with past Commission practice in such matters, and were consolidated and referred to the Division of Administrative Law Judges for further proceedings with a decision due date of April 30, 1998.

On November 7, 1997, the Staff of the Public Service Commission filed its Final Joint Staff Memorandum in these consolidated cases. Staff stated that the Mingo and Logan County Commissions had substantially complied with West Virginia Code §16-13A-2 and Rule 6.0 of the Rules and Regulations for the Government of Public Service Districts, 150 WVCSR 17, §150-17-6.0, et seq. Staff stated further that the Petitioners needed to produce evidence concerning the public convenience and necessity, economic feasibility and adequacy of the proposed facilities before the expected recommendation of approval would be made.

By a Procedural Order entered January 20, 1998, these consolidated cases were scheduled for hearings to be held in Logan, Logan County, and Williamson, Mingo County, on March 4, 1998. This Order also required that the Petitioners publish for public legal notice a prepared Notice of Filing and Hearing in both Logan and Mingo Counties.

On February 6, 1998, the Petitioners filed copies of duly executed affidavits of publication demonstrating publication of the prepared Notice of Filing and Hearing on January 29, 1998, in The Logan Banner, and the Williamson Daily News, newspapers duly qualified by the Secretary of State, published and of general circulation in Logan and Mingo Counties, West Virginia, and all in compliance with the Order entered January 20, 1998.

The hearings convened as scheduled in both Logan and Williamson. The Logan County Public Service District was present in the person of its Managing Engineer Charles R. Roberts, Jr., and was represented by its attorney, James A. Walker. The Staff of the Public Service Commission was represented by Staff Attorney James V. Kelsh. No members of the public appeared at either hearing site to protest or object to these petitions. On March 9, 1998, an accurate transcript of these proceedings consisting of thirteen (13) pages of testimony was filed with the Commission.

EVIDENCE

At hearing, Charles R. "Rick" Roberts testified for the Petitioners. He is Managing Engineer of the Logan County Public Service District and was instrumental in developing the project underlying these boundary changes. Mr. Roberts stated, and produced documents to confirm, that the Logan County Public Service District is currently developing, and has sought a certificate of

convenience and necessity to construct, an appropriate public water system to serve the Mingo County service area sought to be annexed by the District in this proceeding. Actual construction bids on this project were to be opened on March 6, 1998. (Tr., pp. 5-6, 10-11).

In response, Commission Staff agreed that the Petitioners had demonstrated that an appropriate project was being developed to serve the area involved in these petitions and recommended approval of the petitions. Staff has examined all of the documents submitted by the Petitioners to show compliance with the procedural requirements of this boundary change and found them to be substantially complete and proper. (Tr., pp. 6-7, 12).

DISCUSSION

By a Final Joint Staff Memorandum filed February 11, 1998, in Case No. 97-1326-PWD-CN, the Staff of the Public Service Commission recommended approval of an application for a certificate of convenience and necessity filed by the Logan County Public Service District for the construction of a public water system to serve approximately 233 customers in the Logan County and Mingo County communities of Elk Creek, Verner and Spice Creek. Likewise, the State Office of Environmental Health Services has issued the project an Operations Permit No. 13,482. Clearly, this project is feasible and will serve the public convenience and necessity by bringing reliable, safe drinking water to an area currently without a public water supply.

It is also apparent that the County Commissions of Logan and Mingo Counties have taken all necessary procedural steps to enact and ratify this boundary change between the Mingo County Public Service District and the Logan County Public Service District. Additionally, there has been no protest or objection filed of record to any of these proceedings either before the County Commissions or the Public Service Commission. Consequently, the petitions filed in these consolidated cases will be granted and that portion of the service territory of the Mingo County Public Service District described in the petitions will be removed from that District and added to the service territory of the Logan County Public Service District.

FINDINGS OF FACT

1. On October 3, 1997, the Logan County Public Service District filed a formal petition on behalf of the Mingo County Commission to reduce the territory of the Mingo County Public Service District, which was designated as Case No. 97-1344-PWD-PC. (See, Petition filed October 3, 1997).

2. On October 8, 1997, the Logan County Public Service District filed a formal petition on behalf of the Logan County Commission to enlarge the territory of the Logan County Public Service District to include the areas of Mingo County which were being withdrawn from the territory of Mingo County Public Service District in Case No. 97-1344-PWD-PC. (See, Petition filed October 8, 1997).

3. The territory to be withdrawn from the Mingo County Public Service District and added to the Logan County Public Service District encompasses the area of the pending Elk Creek, Verner and Spice Creek water project of the Logan County Public Service District. An application for a certificate of convenience and necessity for this project was filed on November 21, 1997, and has been designated as Case No. 97-1326-PWD-CN on the Commission's docket. (See, Petitions filed October 3 and 8, 1997; Application filed November 21, 1997).

4. Pursuant to its review of the documents submitted with the petitions filed herein, Commission Staff has determined that the Mingo and Logan County Commissions have substantially complied with the procedural steps outlined in West Virginia Code §16-13A-2 and Rule 6.0 of the Commission's Rules and Regulations for the Government of Public Service Districts, 150 WVCSR 17, §150-17-6.0 *et seq.*, for the transfer of the described service territory between the Public Service Districts. (See, Final Joint Staff Memorandum filed November 7, 1997; Tr., pp. 6-7, 12).

5. Pursuant to the requirements of West Virginia Code §16-13A-2 and a Notice of Filing and Hearing properly published for public legal notice in both Logan and Mingo Counties, West Virginia, a public hearing was convened in these consolidated cases on March 4, 1998, at which no members of the public appeared to protest or object to these petitions. (See, Affidavits of Publication filed February 6, 1998; Transcript generally).

CONCLUSION OF LAW

Under the facts and circumstances of these consolidated cases and the recommendation of Commission Staff, it is reasonable to grant the petitions filed herein, and approve the reduction of the Mingo County Public Service District and the enlargement of the Logan County Public Service District by the service territory described therein.

ORDER

IT IS, THEREFORE, ORDERED that the Order of the Mingo County Commission dated October 1, 1997, and filed herein on October 3, 1997, to reduce the existing service territory of the Mingo County Public Service District, as detailed in said Order and supporting documents, is approved, and that the Order of the Logan County Commission dated October 6, 1997, and filed herein on October 8, 1997, to increase the service territory of the Logan County Public Service District to incorporate the service territory ceded by the Mingo County Public Service District herein, is approved, both to be effective on and after the date that this Recommended Decision becomes a final order of the Commission.

IT IS FURTHER ORDERED that these consolidated cases shall be removed from the Commission's docket of open cases.

The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.



Thomas N. Trent
Administrative Law Judge

TNT:dfb

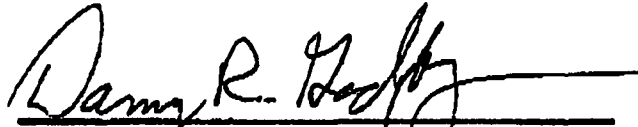
**IN THE COUNTY COMMISSION
OF LOGAN COUNTY, WEST VIRGINIA:**

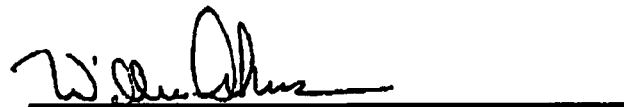
IN RE: LOGAN COUNTY PUBLIC SERVICE DISTRICT

The County Commission of Logan County, West Virginia, is cognizant that a vacancy now exists on the **LOGAN COUNTY PUBLIC SERVICE DISTRICT BOARD** due to the resignation of Paul Hardesty, effective December 31, 2010. Motion was made, seconded and unanimously passed to accept the aforesaid resignation of Board Member Paul Hardesty, effective December 31, 2010.

Upon the recommendation of the Logan County Public Service District Board, motion was duly made, seconded and unanimously passed to appoint **LEONARD HOVIS** to fill the unexpired term of Mr. Hardesty, said term to expire in January 2014.

ENTERED this the 6th day of January, 2011


DANNY R. GODBY, President


WILLIE D. AKERS, JR., Commissioner


DANNY ELLIS, Commissioner

BOOK 112 PAGE 558

**IN THE COUNTY COMMISSION
OF LOGAN COUNTY, WEST VIRGINIA:**

IN RE: LOGAN COUNTY PUBLIC SERVICE DISTRICT

The County Commission of Logan County, West Virginia, being cognizant that the term of MR. BEN LOWE, JR. has expired on the LOGAN COUNTY PUBLIC SERVICE DISTRICT BOARD, does, upon motion duly made, seconded and passed, reappoint Mr. Lowe to a new term of six (6) years on the said Logan County PSD Board, said term to expire in January of 2014.

ENTERED this the 22nd day of February, 2008.


ARTHUR E. KIRKENDOLL,
President

BOOK 112 PAGE 559

**IN THE COUNTY COMMISSION
OF LOGAN COUNTY, WEST VIRGINIA:**

IN RE: LOGAN COUNTY PUBLIC SERVICE DISTRICT

The County Commission of Logan County, West Virginia, being cognizant that the term of MR. MIKE STONE has expired on the LOGAN COUNTY PUBLIC SERVICE DISTRICT BOARD, does, upon motion duly made, seconded and passed, reappoint Mr. Stone to a new term of six (6) years on the said Logan County PSD Board, said term to expire in October of 2013.


ENTERED this the 22nd day of February, 2008.


**ARTHUR E. KIRKENDOLL,
President**




OFFICER'S OATH

THE STATE OF WEST VIRGINIA, LOGAN COUNTY, TO WIT:

I, Ben F. Lowe, Jr., having been duly appointed to the office of Board Member of the Logan County Public Service District do solemnly swear that I will support the Constitution of the United States and the Constitution of this State, and that I will truly and faithfully discharge all the duties of said office, during my continuance therein, to the best of my skill and judgement, so help me, God.


Ben F. Lowe, Jr.

Subscribed and sworn to before the undersigned Clerk of the County Commission of said county, this 10th day of January, 2002.


Glen D. Adkins, Clerk

By: 

OFFICER'S OATH

THE STATE OF WEST VIRGINIA, LOGAN COUNTY, TO WIT:

I, Mike Stone, having been duly appointed to the office of Board Member of the Logan County Public Service District do solemnly swear that I will support the Constitution of the United States and the Constitution of this State, and that I will truly and faithfully discharge all the duties of said office, during my continuance therein, to the best of my skill and judgement, so help me, God.

Mike Stone
Mike Stone

Subscribed and sworn to before the undersigned Clerk of the County Commission of said county, this 9th day of January, 2002.

Glenn D. Adkins
Glenn D. Adkins, Clerk
By: Barbara Belcher

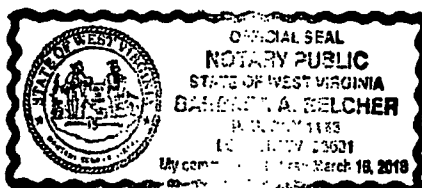
OATH OF OFFICE**STATE OF WEST VIRGINIA****COUNTY OF LOGAN**

**I, LEONARD HOVIS, DO SOLEMNLY SWEAR TO
SUPPORT THE CONSTITUTION OF THE UNITED
STATES AND THE STATE OF WEST VIRGINIA,
AND TO FAITHFULLY DISCHARGE THE DUTIES AS A
BOARD MEMBER OF THE LOGAN COUNTY PUBLIC
SERVICE DISTRICT OF LOGAN COUNTY, WEST
VIRGINIA, TO THE BEST OF MY ABILITY AND
JUDGMENT, SO HELP ME GOD.**


LEONARD HOVIS

SUBSCRIBED AND SWORN TO BEFORE ME THIS THE

19th DAY OF January, 2011.





RULES OF PROCEDURE

LOGAN COUNTY PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

Section 1. The name of this Public Service District shall be **LOGAN COUNTY PUBLIC SERVICE DISTRICT** (the "District").

Section 2. The principal office of the District will be located at **Watts & Browning Building, Suite 507, 201 1/2 Stratton Street, Logan, West Virginia.**

Section 3. The official seal of the District shall consist of 2 concentric circles between which circles shall be inscribed "**LOGAN COUNTY PUBLIC SERVICE DISTRICT WEST VIRGINIA**", and in the center "**CORPORATE SEAL**" is followe:

Section 4. The fiscal year of the District shall begin on the 1st day of July in each year and shall end on June 30 of the following year.

ARTICLE II

PURPOSE

Section 1. The District is organized and operated exclusively for the purposes set forth in Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act").

ARTICLE III

MEMBERSHIP

Section 1. The members of the Public Service Board of the District (the "Board") shall be those persons appointed by The County Commission of Logan County, West Virginia (the "County Commission"), or otherwise appointed pursuant to the Act, who shall serve for such terms as may be specified in the order of the County Commission or otherwise.

Section 2. Should any member of the Board resign or otherwise become legally disqualified to serve as a member of the Board, the District shall immediately notify the County Commission or other entity provided under the Act and request the appointment of a qualified person to fill such vacancy. Prior to the end of the term of any member of the Board, the District shall notify the County Commission or other entity provided under the Act of the pending termination and request the County Commission or other entity provided under the Act to enter an order of appointment or re-appointment to maintain a fully qualified membership of the Board.

Section 3. The District shall provide to the Public Service Commission of West Virginia, within 30 days of the appointment, the following information: the new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board, and such other information required under the Act.

Section 4. Each board member shall, within 6 months of taking office, successfully complete the training program established and administered by the Public Service Commission of West Virginia in conjunction with the West Virginia Department of Environmental Protection and the West Virginia Bureau for Public Health.

Section 5. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the District, nor shall a former board member be hired by the District in any capacity within a minimum of 12 months after such board member's term has expired or after such board member has resigned from the Board.

Section 6. Salaries of the board members shall be established as provided in Chapter 16, Article 13A, Section 4 of the Act. The District shall certify the number of customers served to the Public Service Commission of West Virginia on the first day of July each year. Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties.

Section 7. The members of the Board are not personally liable or responsible for any obligations of the District or the Board but are answerable only for willful misconduct in the performance of their duties.

ARTICLE IV

MEETINGS OF THE BOARD

Section 1. The members of the Board shall hold regular monthly meetings on such days of each month and at such place and hour as the members shall determine from time to time. If the day stated shall fall on a legal holiday, the meeting shall be held on the following day. Special meetings of the Board may be called at any time by the Chairperson or by a quorum of the Board.

Section 2. At any meeting of the Board, a majority of the members of the Board shall constitute a quorum. Each member of the Board shall have one vote at any meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

Section 3. Unless otherwise waived, notice to members of regular meetings shall be by letter or telephone. Unless otherwise waived, notice to members of each special meeting shall be by letter or telephone not less than 72 hours before the date fixed for such special meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted at such meeting, and no business other than that stated in the notice shall be transacted at such special meeting.

Section 4. Pursuant to Chapter 6, Article 9A, Section 3 of the Code of West Virginia, 1931, as amended, notice of the date, time, place and agenda of all regularly scheduled meetings of the Board, and the date, time, place and purpose of all special meetings of the Board, shall be made available, in advance, to the public and news media as follows:

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of these Rules of Procedure and in July of each year thereafter, the Board shall instruct the Secretary to, and the Secretary shall, post, and leave posted throughout the year to which it applies, at the regular meeting place of the Board and at the Logan County Courthouse, where notices customarily are posted, a notice setting forth the date, time and place of the Board's regularly scheduled meetings for the ensuing year. In addition, a copy of the agenda for each regularly scheduled meeting shall also be posted at the same location by the Secretary not less than 72 hours before such regular meeting is to be held.

The Board shall also instruct the Secretary to, and the Secretary shall, distribute to each of the newspapers and other news media listed below a notice identical to that posted:

News Media

Address

The Logan Banner

**P.O. Box 720
Logan, WV 25601**

WVOW - AM/FM

**P.O. Box 1776
Logan, WV 25601**

Williamson Daily News

**P.O. Box 1660
Williamson, WV 25661**

The Lincoln Journal

**P.O. Box 308
Hamlin, WV 25523**

Independent Herald

**P.O. Box 100
Pineville, WV 24874**

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In July of each year after the adoption of these Rules of Procedure, the Board shall review the above list and shall amend such list as needed, in the opinion of the Board, to reflect properly all the newspapers and other news media that customarily cover news of the area served by the Board. In addition, a copy of the agenda for each regularly scheduled meeting shall also be distributed to the news media by the Secretary not less than 72 hours before such regular meeting is to be held.

In the event of any modification to the date, time, place or agenda of a regularly scheduled meeting of the Board, notice of such modification shall immediately be given to the public and news media by posting at the places and distributing to the news media in the manner set forth above not less than 48 hours before such regular meeting is to be held. A copy of the notice of such modification shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Rule No. 2. Notice of Special Meetings. Not less than 72 hours prior to the date set for any special meeting of the Board, the Board shall instruct the Secretary to, and the Secretary shall, post at the regular meeting place of the Board and at the Logan County

Courthouse, where notices customarily are posted, a notice setting forth the date, time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than 72 hours prior to the date set for such special meeting, the Secretary shall distribute to each of the newspapers and other news media listed in Rule No. 1 hereof, a notice identical to that posted. Amendments made to such news media list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

A copy of such notice posted and distributed pursuant to this Rule No. 2 shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Rule No. 3. Emergency Meetings. The Board may hold a meeting without providing the notice to the public and news media required by Rule No. 1 and Rule No. 2 hereof only in the event of an emergency requiring immediate official action. The existence for such an emergency requiring immediate official action shall be determined by the Board and shall be attested to in a certificate by the Secretary describing such emergency and setting forth the reason or reasons immediate official action is required, which certificate shall be attached to and made a part of the minutes of such emergency meeting.

Rule No. 4. Executive Sessions. The Board may hold an executive session during a regular, special or emergency meeting in accordance with Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended. During the opening portion of the meeting, prior to convening an executive session, the Chairperson shall identify the authorization under Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, for holding the executive session and present it to the Board and to the general public, but no decision may be made in the executive session. An executive session may be held only upon a majority affirmative vote of the Board members present. The Board may hold an executive session and exclude the public only when a closed session is required for any of the actions permitted under Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended.

Rule No. 5. Minutes. The Board shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, minutes of all meetings except

minutes of executive sessions, if any are taken, shall be available to the public within a reasonable time after the meeting and shall include, at least, the following information:

- (1) The date, time and place of the meeting;
- (2) The name of each Board member present and absent;
- (3) All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same and their disposition; and
- (4) The results of all votes and, upon the request of a Board member, the vote of each Board member, by name.

Rule No. 6. No Actions by Reference. Except as otherwise expressly provided by law, the Board may not deliberate, vote, or otherwise take official action upon any matter by reference to a letter, number or other designation or other secret device or method, which may render it difficult for persons attending a meeting to understand what is being deliberated, voted or acted upon. However, this rule does not prohibit the Board from deliberating, voting or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted upon, are available for public inspection at the meeting. The Board may not vote by secret or written ballot.

Rule No. 7. Broadcasting of Meetings. Except as otherwise provided in this rule, any radio or television station is entitled to broadcast all or any part of a Board meeting required to be open. The Board may regulate the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting, so as to prevent undue interference with the meeting. The Board shall allow the equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of the equipment may not be declared to constitute undue interference; provided, that if the Board, in good faith, determines that the size of the meeting room is such that all the members of the public present and the equipment and personnel necessary for broadcasting, photographing, filming and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternate meeting room is not readily available, then the Board, acting in good faith and consistent with the purposes of this rule, may require the pooling of the equipment and the personnel operating it.

Rule No. 8. Telephonic Meetings. Board meetings may be held by telephone conference or other electronic means. All Board members participating by telephone or other electronic means must be audible to all those personally present.

Section 5. All meetings of any committee of the Board shall be subject to the Rules of Procedure set forth in Section 4 above.

ARTICLE V

OFFICERS

Section 1. The officers of the Board shall be a Chairperson, Secretary and Treasurer. The Chairperson shall be elected from the members of the Board. The Secretary and Treasurer need not be members of the Board.

Section 2. The officers of the Board shall be elected each year by the members at the first meeting after the first day of January of each year. The officers so elected shall serve until the next annual election by the membership and until their successors are duly elected and qualified. Any vacancy occurring among the officers shall be filled by the members of the Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the next annual organizational meeting of the Board when their successors shall be elected as hereinabove provided.

ARTICLE VI

DUTIES OF OFFICERS

Section 1. When present, the Chairperson shall preside as Chairperson at all meetings of the Board. He/She shall, together with the Secretary, sign the minutes of all meetings at which he/she shall preside. He/She shall attend generally to the executive business of the Board and exercise such powers as may be conferred upon him/her by the Board, by these Rules of Procedure, or prescribed by law. He/She shall execute, and, if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements, or other documents necessary, requisite, proper or convenient to be executed by or on behalf of the Board when and if directed by the members of the Board.

Section 2. If the Chairperson is absent from any meeting, the remaining members of the Board shall select a temporary chairperson.

Section 3. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. Duplicate records shall be filed with the County Commission and shall include the minutes of all Board meetings. He/She shall, together with the Chairperson, sign the minutes of the meetings at which he/she is present. The Secretary shall have charge of the minute book, be the custodian of records and other documents and papers of the Board. He/She shall also perform such other duties as may be required of him/her by law or as may be conferred upon him/her from time to time by the members of the Board.

Section 4. The Treasurer shall be the lawful custodian of all funds of the District and shall pay same out on orders authorized or approved by the Board. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through him/her and shall prepare and submit such reports and statements of the financial condition of the Board as the members may from time to time prescribe. The Treasurer shall keep and preserve all financial records of the District for 10 years and shall at all times have such records readily available for public inspection. At the end of his/her term of office, the Treasurer shall promptly deliver all financial records of the District to his successor in office. He/She shall also perform such other duties as may be required of him/her by law or as may be conferred upon him/her from time to time by the members of the Board. The Treasurer shall furnish bond in an amount to be fixed by the Board for the use and benefit of the District.

Section 5. No money may be paid out by the District except upon an order signed by the Chairperson and Secretary, or such other person or persons authorized by the Chairperson or the Secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the Board.

Section 6. The members and officers of the Board shall make available to the County Commission, at all times, all of its books and records pertaining to the District's operation, finances and affairs, for inspection and audit.

ARTICLE VII

AMENDMENTS TO RULES OF PROCEDURE

Section 1. These Rules of Procedure may be altered, changed, amended or added to at any regular or special meeting of the Board when a quorum is present and a majority of those present vote for the alteration, change, amendment or addition; but no such alteration, change, amendment or addition shall be made at any special meeting unless notice of the intention to propose such alteration, change, amendment or addition and a clear statement of the substance thereof be included in the written notice calling such special meeting.

Adopted this 9th day of May, 2002.


Chairperson and Member


Member


Member

CERTIFICATION

**Certified a true copy of the Rules of Procedure duly adopted by the
Board of Logan County Public Service District on May 9, 2002.**

Dated this 10th day of May, 2002.

[SEAL]



Secretary

04/25/02
000121000029

ME004570.1



**LOGAN COUNTY
PUBLIC SERVICE DISTRICT**

P.O. Box 506
Logan, WV 25601
(304) 946-2641 (TDD)
Fax (304) 946-2645
E-mail: lcpsd@lcpsd.com

BOARD MEMBERS:
Ben F. Lowe, Jr., Chair
Mike Stone
Leonard Hovis
GENERAL MANAGER:
William Baisden, CPA

MINUTES

January 8, 2013

Respectfully submitted,


Mr. Ben F. Lowe, Jr., Chair


Mr. Mike Stone, Secretary


Mr. Leonard Hovis, Treasurer



The Logan County Public Service District held its Regular Monthly Board Meeting on Tuesday, January 8, 2013 at 6:30 p.m. at the Logan County Public Service District Business Office, 41 Armory Road, Monaville, West Virginia.

Mr. Ben F. Lowe, Jr., Chair, called the meeting to order. See attached list of those in attendance.

APPROVAL OF MINUTES: The Board reviewed the Minutes of the December 18, 2012 Regular Board Meeting. A motion was made by Mr. Hovis to approve the minutes as presented, seconded by Mr. Stone. Motion passed 3-0.

ELECTION OF OFFICERS: Being the first District Board Meeting of the new year, the election of the officers was discussed. A motion was made by Mr. Stone that the District Board Officers remain the same, seconded by Mr. Hovis. Motion passed 3-0. The District Officers for 2013 are:

Mr. Ben F. Lowe, Jr., Chair
Mr. Leonard Hovis, Treasurer
Mr. Mike Stone, Secretary

CUSTOMER/PUBLIC PRESENTATIONS: None.

ANNOUNCEMENTS: The next Regular Board Meeting is scheduled for Tuesday, January 22, 2013, at 10:00 a.m. at the Logan County PSD Office, 41 Armory Road, Monaville, West Virginia.

The next Special Board Meeting is scheduled for Tuesday, February 5, 2013, at 6:30 p.m. at the Logan County PSD Office, 41 Armory Road, Monaville, West Virginia.

PROJECT IMPLEMENTATION:

Frances Creek Water Project – Rick Roberts, E. L. Robinson Engineering Co., reported that the Small Cities Block Grant was received. A discussion was held on the additional funding for this project.

Anchor Road Water Project – Mr. Baisden reported that at the next board meeting the Bond Resolution will be approved.



Marsh Fork Water Project – Mr. Roberts reported that tank contractor has begun working on the tank site.

Mr. Roberts presented project invoices and a RUS draw resolution to the Board for approval and signature as follows:

Tri-State Pipeline, Inc.	\$ 33,990.91
Mike Enyart & Sons, Inc.	40,774.00
E. L. Robinson Engineering, Co.	<u>2,700.00</u>
	\$ 77,464.91

A motion was made by Mr. Hovis to approve the invoices and draw resolution as presented, seconded by Mr. Stone. Motion passed 3-0.

Big Harts Creek Water Project – Mr. Roberts reported that they are working on the easements.

Phase III A Sewer Project – Mr. Roberts stated that Pre-closing has been scheduled for January 22, 2013 at 10:00 a.m.

Mr. Roberts presented an invoice from E. L. Robinson Engineering Company in the amount of \$113,750.00 for the final design and bidding process to the Board for approval. A motion was made by Mr. Stone to approve the invoice, seconded by Mr. Hovis. Motion passed 3-0.

Mr. Roberts presented a Schedule B to the Board for review.

A discussion was held on the condemnations on this project.

Phase III B-1 Sewer Project – Mr. Roberts stated that they have submitted the plans to Barry Bailey, Chief Operator of the LCPSD Wastewater Plant for review and comments.

Mr. Roberts stated that Region II PDC is working on the resubmitting the ARC application.

Other Projects – A discussion was held on the Claypool tank line relocation.

A discussion was held on the waterline extension for Carpenter Machine Shop.



Mr. Roberts presented a Resolution and an Application for a Community Participation Grant for these projects to the Board for approval and signature. A motion was made by Mr. Hovis to approve the Resolution and authorize Mr. Lowe to execute all documents related to the application, seconded by Mr. Stone. Motion passed 3-0.

SYSTEM OPERATIONS: Mr. Baisden presented a Memorandum approving the payment of monthly invoices in the amount \$75,686.39 to the Board for review, approval and signature. A motion was made by Mr. Hovis to approve the invoices as presented, seconded by Mr. Stone. Motion passed 3-0.

Eastern Wyoming Water Systems – Mr. Baisden reported that the next board meeting is scheduled for Tuesday, January 15, 2013 at 6:30 p.m. at the Stephenson Water Treatment Plant.

Other – In regards to Manns Knob Water Project, Mr. Baisden stated that the construction crew has not been able to work on this project lately.

Mr. Baisden stated that the District has had to repair several leaks.

EXECUTIVE SESSION: None.

ADJOURNMENT: Being no other business, a motion made by Mr. Stone and seconded by Mr. Hovis, the meeting was adjourned.

Attendance List

Representing

LCPSD

Cancel

EL Robinson Eng.

LCPSD

LCPSD

LCPSD

LCPSD

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL

Entered: June 13, 2012

7/3/2012

CASE NO. 11-1808-PSD-CN

LOGAN COUNTY PUBLIC SERVICE DISTRICT,
a public utility, Logan, Logan County.

Application for a certificate of convenience and necessity to construct a sewer project to make service available to approximately 365 potential customers in the Logan County communities of Upper Crooked Creek, Lower Copperas Mine Fork and surrounding areas.

RECOMMENDED DECISION

This Order *inter alia* approves the District's application for a certificate of convenience and necessity to construct a sewer project to serve the Logan County communities of Upper Crooked Creek, Lower Copperas Mine Fork and surrounding areas; approves the financing to support the project; and approves a rate decrease upon substantial completion of the project.

PROCEDURE

On December 30, 2011, Logan County Public Service District (District) filed an application for a certificate of convenience and necessity to construct a sewer project to make service available to approximately 365 potential customers in the Logan County communities of Upper Crooked Creek, Lower Copperas Mine Fork and surrounding areas. Funding for the estimated total project cost of \$11,740,600 is to be provided from the following sources: (a) Small Cities Block Grant in the amount of \$1,500,000; (b) USDA-Rural Development Grant in the amount of \$8,728,600; and (c) USDA-Rural Development loan in the amount of \$1,512,000 at 2.5% interest for a term of 40 years. No rate increase was anticipated as a result of the project. The District has a pending rate case, Case No. 11-1800-PSD-42T, in which the District requested a 20% rate increase unrelated to the project.

By Commission Order dated January 5, 2012, the District was required to publish a copy of the attached Notice of Filing once in a qualified newspaper, as provided in W. Va. Code §59-3-1, et seq., published and of general circulation in Logan County, making due return to the Commission of proper certification of publication immediately after publication.

By Commission Order dated January 6, 2012, the District was required to publish a copy of the attached Amended Notice of Filing once in a qualified newspaper, as provided in W. Va. Code §59-3-1, et seq., published and of general circulation in Logan County, making due return to the Commission of proper certification of publication immediately after publication.

By Commission Order dated January 10, 2012, the proceeding was referred to the Division of Administrative Law Judges with a decision due date of on or before May 14, 2012, if there was no substantial protest to the application within thirty (30) days after the required notice had been provided, and on or before June 12, 2012, if a substantial protest was received within thirty (30) days after the required notice had been provided.

On January 10, 2012, the District filed a copy of the return receipt from the United States Postal Service reflecting that the City of Logan, the District's sole resale customer, had been served with the Amended Notice of Filing.

On January 30, 2012, the District filed the Affidavit of Publication from The Logan Banner which indicated that the Amended Notice of Filing had been published on January 12, 2012.

On February 7, 2012, Staff Attorney Wendy Braswell filed the Initial Joint Staff Memorandum to which was attached the January 24, 2012 Utilities and Engineering Divisions Initial Memorandum prepared by Brian Dworsky, Utilities Analyst II, Utilities Division, and Jim Spurlock, Technical Analyst, Engineering Division. Staff reported on the scope of the project and its estimated cost of \$11,740,600. A final recommendation would be submitted on completion of Staff's review.

On February 10, 2012, the District filed a completed Certificate of Posting, Press Release and Separate Mailing of Notice.

On February 23, 2012, the District filed a motion to toll the statutory time period and extend the Recommended Decision due date.

By Commission Order dated March 1, 2012, the running of the statutory deadline was tolled until July 27, 2012, and the decision due date for the Division of Administrative Law Judges was extended until June 13, 2012.

By Procedural Order dated March 23, 2012, Staff was required to file its final substantive recommendations on or before May 1, 2012. The District was required to request a hearing or file a response or objections, if any, to Staff's final substantive recommendations on or before May 11, 2012.

On May 1, 2012, Staff Attorney Braswell filed the Final Joint Staff Memorandum to which was attached the Utilities and Engineering Divisions Final Recommendation dated May 1, 2012, and prepared by Mr. Dworsky and Mr. Spurlock. Staff reported that, on December 30, 2011, the District had filed an application for a certificate of convenience and necessity to construct a

sewer project to serve approximately 365 potential customers in the Logan County communities of Upper Crooked Creek, Lower Copperas Mine Fork and surrounding areas. The District estimated that construction will cost \$11,740,600, and will be financed by a Small Cities Block Grant in the amount of \$1,500,000, a Rural Utilities Service (RUS) loan in the amount of \$1,512,000 at 2.5% interest for 40 years, and an RUS grant in the amount of \$8,728,600. Funding letters were provided by the District.

Since the District requested an increase in rates in Case No. 11-1800-PSD-42T, Staff utilized the Staff-recommended revenue requirements in Case No. 11-1800-PSD-42T to prepare a cash flow analysis and post-project tariff. Staff determined that the District will have \$27,639 in total surplus and a 117.05% debt service coverage post-project. The Staff-recommended rates should generate an increase in sales revenues of \$160,361 annually, or an 18.14% increase in revenues over the District's existing rates post-project. This level of revenue would be sufficient to cover the District's operating cash requirements of \$618,829 and debt service requirements of \$431,120, and provide a surplus of \$27,639 for the internal funding of plant additions. The surplus of \$27,639 is based on the funding of the renewal and replacement reserve. The Staff-recommended rates represent a 2.16-2.19% decrease below the Staff-recommended block rates in Case No. 11-1800-PSD-42T.

Under the Staff-recommended rates, the average residential customer bill for usage of 3,600 gallons per month is \$41.87, a decrease of \$0.93, or 2.18% below the Staff-recommended rates in Case No. 11-1800-PSD-42T; the average commercial customer bill for usage of 7,700 gallons per month is \$89.55, a decrease of \$2.00, or 2.19% below the Staff-recommended rates in Case No. 11-1800-PSD-42T; the average public authority customer bill for usage of 68,000 gallons per month is \$642.94, a decrease of \$14.20, or 2.16% below the Staff-recommended rates in Case No. 11-1800-PSD-42T; and the average resale bill for usage of 1,260,000 gallons per month is \$3,792.60, a decrease of \$88.20, or 2.27% below the Staff-recommended rates in Case No. 11-1800-PSD-42T. Staff calculated the leak adjustment rate to be \$1.85 per thousand gallons.

According to the Logan County Health Department, approximately 90% of the proposed customers discharge sewage directly into area streams and the remainder use on-site septic systems. The County and State Health Departments endorse the District's efforts to make public sewer service available to the area. The District still must complete a customer list for the project.

Construction will include approximately 41,847 feet of 12-inch and smaller diameter gravity pipe; 4,660 feet of 12-inch and smaller diameter force mains; 382 manholes; one new pumping station; and the upgrade of one existing pumping station. The District's existing wastewater treatment plant, which has more than adequate capacity to serve the project, will treat the sewage. The 12-inch sewer line will be capable of transporting future extension project flows.

The total estimated project cost of \$11,740,600 appears reasonable, but the \$32,166 cost per new customer is high. The project is approximately 87% grant-funded. Engineering project costs are \$1,438,000, and constitute 16.2% of the construction cost of \$8,850,000. The American

Society of Civil Engineers manual of practice indicates an average percentage of approximately 13% for projects of this scope. Operation and maintenance expenses are expected to increase by \$92,500 due to the project. Staff opined that this is a reasonable estimate.

The State Office of Environmental Health Services issued Permit No. 18,981 for the project. Staff's review of the plans and specifications did not reveal any conflicts with the Commission's rules and regulations.

Technical and Financial Staff recommended *inter alia* that the District's application be approved and also recommended that Staff's rates and charges be approved to be effective upon substantial completion of the project. Technical and Financial Staff recommended approval of the following project financing: Small Cities Block Grant in the amount of \$1,500,000; RUS loan in the amount of \$1,512,000; RUS grant in the amount of \$8,728,600, for a total of \$11,740,600. Technical and Financial Staff also recommended that the District be required to provide a customer list which corresponds to the proposed customer count for the project. Legal Staff omitted recommending approval of the Staff-recommended rates and charges.

On May 9, 2012, the District filed a letter in which it strongly objected to any rate decrease.

On May 11, 2012, the following procedural schedule was established for the timely processing of this matter:

1. Legal Staff is to file a further memorandum on or before May 17, 2012;
2. A hearing in this matter is scheduled for May 24, 2012, at 10:00 a.m. at Logan City Hall, Council Room, 219 Dingess Street, Logan, West Virginia;
3. An overnight transcript is to be filed in this matter on May 25, 2012; and
4. Initial briefs, if any, may be filed on or before May 31, 2012, and reply briefs, if any, may be filed on or before June 6, 2012.

On May 17, 2012, Staff Attorney Braswell filed a Further Final Joint Staff Memorandum. Legal Staff confirmed that she concurred with Staff's rate recommendations.

On May 24, 2012, the hearing took place as scheduled. Wendy Braswell, Esquire, appeared on behalf of Commission Staff. James D. Kauffelt, Esquire, appeared on behalf of the District.

On May 25, 2012, a transcript of the hearing, consisting of ninety-one (91) pages of testimony, was filed.

On May 31, 2012, Staff and the District filed their respective initial briefs.

On June 6, 2012, Staff and the District filed their respective reply briefs.

As of the date of this Order, no protests have been filed.

EVIDENCE

The District called William Baisden as its first witness. Mr. Baisden is the general manager for the Logan County Public Service District. (Tr. at 9). There are 365 potential customers to be added by the sewer project in the Upper Crooked Creek and Lower Copperas Mine Fork areas of Logan County. Ninety percent (90%) of the residents of those areas discharge sewer directly into the streams. (Tr. at 10). The project will end that. Proposed financing includes a Small Cities Block Grant in the amount of \$1,500,000, a USDA Rural Development Grant in the amount of \$8,728,600 and a USDA Rural Development loan in the amount of \$1,512,000. There are time constraints in spending the money. (Tr. at 11). The level of potential extra revenue is not substantial enough to warrant a rate reduction. He believes that the public convenience and necessity require the construction of the sewer project. He recommended that the Commission approve the project without Staff's proposed future rate reduction. Mr. Baisden believes the proposed financing is favorable to the District's customers. Mr. Baisden agreed that the project has an unusually high amount of grant money. (Tr. at 12).

On cross-examination by Ms. Braswell, Mr. Baisden agreed that ninety percent (90%) of the project's proposed new customers discharge sewage directly into streams and the District has the authority to compel users to connect to the sewer project, particularly in cases where a customer has no functioning sewer system. (Tr. at 13). The District calculated the proposed project revenues on 282 new customers which is less than the proposed number of customers. (Tr. at 16).

On redirect, Mr. Baisden agreed that the District would not immediately have one hundred percent (100%) participation upon completion of the project. (Tr. at 16-17). Initially participation is really low. More are added as time goes on. (Tr. at 17).

On questioning by the Administrative Law Judge, Mr. Baisden agreed that it was mandatory for everyone to sign up for sewer service. (Tr. at 17).

On redirect, Mr. Baisden testified that, in the past, the Defendant has had to resort to threats of legal action to get customers to sign up for service. (Tr. at 18).

The District called Charles Richard Roberts, Jr., as its second witness. Mr. Roberts is a registered professional engineer who is the project manager for this particular project. (Tr. at 19). The project will install a new forced main through a currently served area, but the collection system will be in currently unserved areas. (Tr. at 20). The bulk of the sewage from the proposed customers is discharged directly into either Crooked Creek or Copperas Fork and then into the Guyandotte River. (Tr. at 20-21). The construction of the proposed project will end sewage discharge in its area. (Tr. at 21).

The proposed financing of the project consists of a \$1,500,000 Small Cities Block grant, a Rural Utility Services USDA Rural Development grant of \$8,728,600 and a Rural Utility Services loan in the amount of \$1,512,000 for a total of \$11,740,000. The project is eighty-seven percent (87%) grant funded which, Mr. Roberts opined, was very favorable. The \$8,728,600 RUS grant was the largest ever awarded in the State of West Virginia. (Tr. at 21). Due to funding deadlines, timing is very critical to the project. (Tr. 21-22). Mr. Roberts felt that it would be very difficult to be under contract by the end of July 2012. As long as construction can begin and there are no delays, the project should be able to be done by the ultimate time frame of September 30, 2013. (Tr. at 22).

Average residential water usage has decreased from 4,000+ gallons per month to the current level of 3,600 gallons. Whenever rates have increased, usage sags due to customers' efforts to conserve and lower bills. (Tr. at 31). On the District's first two (2) projects, the District saw a decrease in consumption in the range of five to ten percent (5-10%) at the start-up of the project. (Tr. at 32).

On cross examination by Ms. Braswell, Mr. Roberts testified that, for the first two (2) phases of the sewer project, the District saw a significant dip in usage which he would attribute to the project going online. (Tr. at 33).

On questioning by the Administrative Law Judge, Mr. Roberts testified that, while he did not disagree with the District's use of 3,596 gallons, during the first two (2) phases the District saw a 5-10% decrease in usage. Usage never returned to the original levels. (Tr. at 36).

On redirect, Mr. Roberts testified that Phase I went online in 2004 and included approximately 1,000 customers. Phase II went online in 2008 or 2009 and included about 250 to 300 customers. (Tr. at 37).

The District called Michael Griffith as its third and last witness. (Tr. at 37). He serves as the project CPA for the District. The District used 3,596 gallons per customer as the number for average residential consumer water consumption. Mr. Griffith opined that there was no dispute over usage estimates, but the District was fearful of the level of surplus. (Tr. at 38). The District recommended that the rates in the District's current rate case remain for the instant case and, if the Commission wants to order a rate review after a year of operation under the project, it can do that as it has done before. Mr. Griffith has never seen a rate reduction for a water or sewer project certificate case in his years of practice or at the Commission. (Tr. at 39). He thought that, in the instant case, the Commission could approve the rates approved by the rate case and require the review of the rates after substantial completion as it frequently does when there is a project rate increase. Although expenses may increase in the intervening time between when the Order is issued and the project goes online, there is no way to quantify that increase. (Tr. at 40).

On cross-examination by Ms. Braswell, Mr. Griffith thought that, although the environmental impact is the primary driver, the timing of stimulus funding was helpful to the District and a few others. He would not disagree that 92% grant funding for a project with costs

exceeding \$11,000,000 is extraordinary. (Tr. at 41). The District's filing reflects costs based upon 365 customers per month for 12 months per year. (Tr. at 43). Those costs were used to develop the District's Rule 42 exhibit. (Tr. at 44).

On questioning by the Administrative Law Judge, Mr. Griffith testified that, without a rate reduction, post-project coverage would be 120.5%. Mr. Griffith also estimated that, without a rate reduction, cash surplus available for capital additions would be \$48,264, as opposed to Staff's number of \$27,639. (Tr. at 47). The Staff and the District have reached settlement in the rate case and have agreed to the Staff-recommended rates which provide 116.99% rate coverage and \$23,077 in cash surplus available for capital additions. (Tr. at 48). The \$48,264 figure results in \$20,800 remaining surplus after R&R funds are removed. Without the Staff-recommended rate decrease, approximately \$20,000 in additional surplus would be available post-project. The two percent (2%) decrease equals the amount of \$20,800. (Tr. at 49).

On recross, Mr. Griffith agreed that the \$48,264 figure is the District's total amount available for capital additions and Staff's recommendation is \$27,639. (Tr. at 50-51). The difference between the two (2) positions is approximately \$20,000.00. (Tr. at 51). Mr. Griffith has never seen 100% participation in any sewer project even after all efforts were exhausted. The funding agency required the District to use an 80% level of participation. (Tr. at 53). Getting customers to connect and giving them proper notice takes time. The District thinks it is more prudent to stick with the rates that are approved and review rates after the project. (Tr. at 55).

On questioning by the Administrative Law Judge, the District used 292 customers, as Staff did, to calculate 80% of the 365 projected customers. (Tr. at 56). The District proposed that the certificate rates remain the same as the rates recommended by Staff in Case No. 11-1800-PSD-42T, which results in an average monthly residential customer bill of 3,600 gallons at \$42.80; an average monthly commercial customer bill of 7,700 gallons at \$91.55; an average monthly public authority customer bill of 68,000 gallons at \$657.14; and an average monthly resale bill of 1,260,000 gallons at \$3,872.33. (Tr. at 60).

On recross, Mr. Griffith testified that the projected customers are either the District's water customers or City of Logan water customers. Mr. Griffith was not aware of any well users. (Tr. at 61).

The District concluded the presentation of its case. (Tr. at 62).

Staff called James Spurlock as its first witness. (Tr. at 62). Mr. Spurlock concluded that the proposed certificate application should be granted. It will serve the public interest and will benefit the public health, a position supported by the State and County Health Departments. (Tr. at 65). The District used 365 proposed customers to calculate project costs. (Tr. at 66). After satisfying certain statutory requirements, the District could bill its water customers for sewer charges even if the customer is not connected to the system. (Tr. at 67).

On cross-examination by Mr. Kauffelt, Mr. Spurlock agreed that sending someone a bill did not mean that the bill would automatically be paid. (Tr. at 67). The District has the legal means to collect payment, but it could take time. Occasionally, all customers sign up, but, typically, due to funding requirements, 80% sign up. (Tr. at 68). Mr. Spurlock agreed that it took time to legally compel people to connect. (Tr. at 68-69). Mr. Spurlock agreed that the older pumps and equipment get, the more likely they will require replacement. (Tr. at 70).

On questioning by the Administrative Law Judge, Mr. Spurlock agreed that public water service could be terminated for failure to hook up to sewer service. (Tr. at 70-71). Mr. Spurlock thought that it was good engineering to use 365 as the number of customers for a margin of safety. (Tr. at 71).

Staff called Brian Dworsky as its second and last witness. (Tr. at 71). Mr. Dworsky works as a utilities analyst at the Commission. (Tr. at 72). His starting point for project adjustments was the Staff-recommended rates in Case No. 11-1800. (Tr. at 73). Project O&M expenses are based on 365 customers. (Tr. at 75). Project bill analysis was based on 365 customers. (Tr. at 75-76). Rates were adjusted to provide 115% coverage and to maintain approximately what was recommend in the rate case. In the instant case, the Staff-recommended rates, which are based on pro forma with project adjustments, raise the percent coverage, raise the District's total available per capital additions and slightly increase the remaining surplus after R&R over what Staff recommended in the rate case. Staff recommended approval of the project funding. (Tr. at 76). The District's proposed project revenues are based on 292 additional customers. (Tr. at 77).

On cross-examination by Mr. Kauffelt, Mr. Dworsky testified that, generally, in a rate case, Staff rates maintain 115 percent debt service coverage, a level of capital additions based on a 3-5 year average and ensure that the R&R fund is not negative. (Tr. at 78). Mr. Dworsky took the recommended rates from the rate case and made adjustments from there to develop the rates in the instant case. (Tr. at 79). Mr. Dworsky agreed that he assumed that the revenue generated at project completion would be based upon 100% of the proposed customers signing up. He used 365 customers for the bill analysis since O&M expenses were based on 365 customers. If there are less than 365 people signed up after the project goes online, O&M expenses would be less. (Tr. at 80). Once all three (3) criteria (debt coverage, positive R&R and 3-5 year average for capital additions) are met, the rates are usually considered satisfactory. He did not consider the age of the equipment or the system. (Tr. at 82).

On questioning by the Administrative Law Judge, Mr. Dworsky testified that he relied upon the 3-5 year plant addition average used in the rate case. He did not think the amount was more than \$23,000. (Tr. at 84).

On redirect, Mr. Dworsky testified that the age of the facilities will be zero upon completion. (Tr. at 86). No adjustments were made to the District's proposed O&M costs. (Tr. at 87).

On recross, Mr. Dworsky agreed that the rates will apply to both new and old customers. (Tr. at 89).

Staff concluded its presentation of its case and the hearing was adjourned. (Tr. at 90-91).

DISCUSSION

The only issue in dispute in this proceeding is post-project rates. Staff has proposed a rate reduction and the District opposes it on the grounds that cash surplus available for plant additions will be approximately \$20,000 less. Staff and the District also disagree about the number of customers to use in the calculation of revenues. The District further contends that its system is aging. However, the District submitted no evidence of specific equipment which needed to be repaired or replaced to justify the need for additional funds. Staff's recommended rates, which match costs for 365 customers with revenues for 365 customers, should be adopted for use by the District upon substantial completion of the project. Staff's recommended rates, although a reduction, maintain an adequate percentage for debt coverage, provide a positive amount for R&R and allow for a 3-5 year average for capital additions.

FINDINGS OF FACT

1. On December 30, 2011, Logan County Public Service District filed an application with the Commission for a certificate of convenience and necessity to construct a sewer project in the Logan County communities of Upper Crooked Creek, Lower Copperas Mine Fork and surrounding area which will provide sewer service to 365 new customers. The total cost of the project is \$11,740,600 and funding is to be provided from the following sources: (a) Small Cities Block Grant in the amount of \$1,500,000; (b) USDA-Rural Development Grant in the amount of \$8,728,600; and (c) USDA-Rural Development loan in the amount of \$1,512,000 at 2.5% interest for a term of 40 years. (See, filing dated December 30, 2011; Staff Ex. No. 1; Further Final Joint Staff Memorandum filed May 17, 2012; Tr. at 5, 11).
2. The District submitted the certificate of publication reflecting that the Notice of Filing had been published on January 12, 2012, in The Logan Banner, a qualified newspaper, published and of general circulation in Logan County. (See, filing dated January 30, 2012).
3. The separate mailing requirement to the District's resale customer was completed on January 9, 2012. (See, filings dated January 10, 2012, and February 10, 2012).
4. As of the date of this Order, no protests have been filed. (See, case file generally).
5. The project will provide sewer service to 365 new customers, 90% of which discharge sewage directly into streams. The remainder use on-site septic systems. The County and State Health Departments endorse the District's efforts to make public sewer service available to the area. (See, Staff Ex. No. 1; Tr. at 10, 65).

6. Commission Staff recommended *inter alia* that the District's application for a certificate of convenience and necessity be approved and also recommended that Staff's rates and charges be approved to be effective upon substantial completion of the project. Commission Staff recommended approval of the following project financing: Small Cities Block Grant in the amount of \$1,500,000; RUS loan in the amount of \$1,512,000; and RUS grant in the amount of \$8,728,600, for a total of \$11,740,600. Commission Staff also recommended that the District be required to provide a customer list which corresponds to the proposed customer count for the project. (See, Staff Ex. No. 1; Further Final Joint Staff Memorandum filed May 17, 2012).

7. Commission Staff recommended a post-project rate decrease of 2.16-2.19% below the Staff-recommended block rates in Case No. 11-1800-PSD-42T for all customers, which results in a cash surplus of \$27,639 and debt service coverage of 117.05% at the completion of the project. (See, Staff Ex. No. 1).

8. Under the Staff-recommended rates, the average residential customer bill for usage of 3,600 gallons per month is \$41.87, a decrease of \$0.93, or 2.18%, below the Staff-recommended rates in Case No. 11-1800-PSD-42T; the average commercial customer bill for usage of 7,700 gallons per month is \$89.55, a decrease of \$2.00, or 2.19%, below the Staff-recommended rates in Case No. 11-1800-PSD-42T; the average public authority customer bill for usage of 68,000 gallons per month is \$642.94, a decrease of \$14.20, or 2.16%, below the Staff-recommended rates in Case No. 11-1800-PSD-42T; and the average resale bill for usage of 1,260,000 gallons per month is \$3,792.60, a decrease of \$88.20, or 2.27%, below the Staff-recommended rates in Case No. 11-1800-PSD-42T. (See, Staff Ex. No. 1).

9. The District has the legal authority to require users to connect to the sewer system. (Tr. at 13, 17).

10. The District's filing reflects costs based upon 365 customers per month for 12 months per year. Those costs were used to develop the District's Rule 42 exhibit. (Tr. at 43-44, 66, 75-76, 80).

CONCLUSIONS OF LAW

1. The public convenience and necessity require the issuance of a certificate of convenience and necessity to Logan County Public Service District to construct a sewer project to make service available to 365 new customers in the Logan County communities of Upper Crooked Creek, Lower Copperas Mine Fork and surrounding areas. Approval is contingent upon the filing of any outstanding permits and clearances.

2. It is reasonable to approve the financing for the project, which consists of (a) Small Cities Block Grant in the amount of \$1,500,000; (b) USDA-Rural Development Grant in the amount of \$8,728,600; and (c) USDA-Rural Development loan in the amount of \$1,512,000 at 2.5% interest for a term of 40 years.

3. The Staff-recommended rates, attached hereto as Appendix A, are sufficient, but not more than sufficient, to cover the District's operation and maintenance expenses, taxes other than income taxes, debt service requirements and routine capital additions, including the additional expenses and debt service requirements generated by the project certificated herein. Accordingly, the Staff-recommended rates should be approved to become effective for all service rendered by the District on and after the date of substantial completion of the project certificated herein.

ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of convenience and necessity filed herein on December 30, 2011, by the Logan County Public Service District to construct a sewer project to make service available to 365 new customers in the Logan County communities of Upper Crooked Creek, Lower Copperas Mine Fork and surrounding areas of Logan County, be, and hereby is, granted.

IT IS FURTHER ORDERED that the proposed financing for the project, consisting of (a) Small Cities Block Grant in the amount of \$1,500,000; (b) USDA-Rural Development Grant in the amount of \$8,728,600; and (c) USDA-Rural Development loan in the amount of \$1,512,000 at 2.5% interest for a term of 40 years, be, and hereby is, approved.

IT IS FURTHER ORDERED that the rates and charges attached hereto as Appendix A be, and hereby are, approved for use by the Logan County Public Service District for all service rendered on and after the date of the substantial completion of the project certificated herein.

IT IS FURTHER ORDERED that the Logan County Public Service District provide a customer list which corresponds to the proposed customer count for the project within thirty (30) days of the date that this Order becomes final.

IT IS FURTHER ORDERED that, within thirty (30) days of filing the certificate of substantial completion for the project, Logan County Public Service District file an original and at least five (5) copies of a proper tariff setting forth the rates and charges hereby approved.

IT IS FURTHER ORDERED that, if there are any changes in the plans, scope or financing of the project, Logan County Public Service District obtain Commission approval of such changes prior to commencing construction.

IT IS FURTHER ORDERED that, if there are any changes in project costs which do not affect rates, Logan County Public Service District file herein an affidavit duly executed by a certified public accountant verifying that the District's rates and charges are not affected.

IT IS FURTHER ORDERED that Logan County Public Service District submit a copy of the certified tabulation of bids to the Commission, making the bids a part of the Commission's file in this case, as soon as the bids are tabulated.

IT IS FURTHER ORDERED that Logan County Public Service District submit to the Commission the project engineer's certificate of substantial completion and inspection of the project as soon as it is received.

IT IS FURTHER ORDERED that, if this project requires the use of Division of Highways' rights-of-way, Logan County Public Service District comply with all rules and regulations of the Division of Highways regarding the use of those rights-of-way.

IT IS FURTHER ORDERED that Logan County Public Service District submit all permits as soon as they are issued by governmental agencies prior to commencing construction.

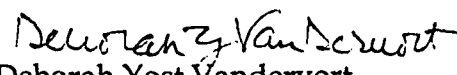
IT IS FURTHER ORDERED that this matter be, and hereby is, removed from the Commission's docket of open cases.

The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and by electronic service upon all parties of record who have filed an e-service agreement with the Commission and by United States Certified Mail, return receipt requested, upon all parties of record who have not filed an e-service agreement with the Commission.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission.


Deborah Yost Vandervort
Administrative Law Judge

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LOGAN COUNTY PUBLIC SERVICE DISTRICT
CASE NO. 11-1808-PSD-CN

APPROVED RATES

SCHEDULE 1

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for general domestic, commercial, industrial (except unusual industrial waste) and resale sewer service.

RATES (Customers with metered water supply)

First	10,000 gallons used per month	\$11.63 per 1,000 gallons
All Over	10,000 gallons used per month	\$ 9.08 per 1,000 gallons

MINIMUM CHARGE (Customers with a metered water supply)

Each customer shall pay a minimum charge of \$29.08 per month

FLAT RATE CHARGE (Customers with a non-metered water supply).

Each customer shall pay a minimum charge of \$52.34 per month
(Equivalent to 4,500 gallons of water usage.)

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

\$450.00

The following charges are to be made whenever the utility installs a new tap to serve an applicant:

A tap fee of \$150.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$450.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

RETURNED CHECK CHARGE

\$25.00

A service charge of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with the City of Logan or the Town of West Logan, a disconnection fee of \$25.00 shall be charged. In the event the delinquent sewer bill is collected by the water utility, an administration fee of \$25.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in connection with a water service termination agreement with the City of Logan or the Town of West Logan is reconnected, a reconnection fee of \$25.00 shall be charged.

INCREMENTAL COSTS

\$1.84 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SECURITY DEPOSIT

Not to exceed two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, or fifty dollars, whichever is greater. This fee may be changed by applicable statutory provisions.

SCHEDULE IISURCHARGE FORMULA TO BE APPLIED IN CASES WHERE SURFACE DRAINAGE IS CONNECTED TO THE DISTRICT'S SANITARY SYSTEMAPPLICABILITY

Where the Utility has discovered that a customer's roof drain, downspout, storm sewer or similar facility conducting surface water has been connected to the Utility's sewer system and such a customer has failed to take appropriate action within thirty (30) days of receipt of a demand by the Utility in accordance with the Rules and Regulations of the Public Service Commission to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

$$S = A \times R \times .0006233 \times C$$

S = the surcharge in dollars

A	=	the area under roof and/or the area of any other water collecting surface connected to the sanitary sewer, in square feet
R	=	the measured monthly rainfall, in inches
.0006233	=	a conversion factor to change inches of rain x square feet of surface to thousands of gallons of water
C	=	the Utility's approved rate per thousand gallons of metered water usage

The Utility shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month the condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

SCHEDULE III

SURCHARGE FORMULA TO A CUSTOMER PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$Ci = VoVi + BoBi + SoSi$$

- Ci = charge to unusual users per year
- Vo = average unit cost of transport and treatment chargeable to volume, in dollars per gallon
- Vi = volume of waste water from unusual users, in gallons per year
- Bo = average unit cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound
- Bi = weight of BOD from unusual users, in pounds per year
- So = average unit cost of treatment (including sludge treatment) chargeable to total solids, in dollars per pound
- Si = weight of total solids from unusual users, in pounds per year

When an unusual user is to be served, a preliminary study of its waste, and the cost of transport and treatment thereof, will be made. Waste containing materials which, in the judgment of the Public Service District, should not be introduced into the sewer system need not be handled by it. The results of the preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the aforesaid investigation and an audit of the Utility's records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the Utility, as the case may be. Such audited figures shall then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment shall be made as aforesaid.

SCHEDULE IV

APPLICABLE INSIDE AND OUTSIDE OF THE CORPORATE LIMITS OF THE UTILITY

Where the amount of sanitary sewage discharged into the Utility's waste treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Utility a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

SCHEDULE V

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for wastewater and leachate haulers.

RATES

Commodity Charge - Each hauler shall pay a commodity charge of \$30.18 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

RETURNED CHECK CHARGE

\$25.00

A service charge of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

SCHEDULE VIAPPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for other systems providing sewer service.

RATES

\$3.01 per 1,000 gallons of sewage treated.

\$5.54 per 1,000 gallons of sewage treated if maximum daily flows exceed 2,000,000 gallons (pre-upgrade of treatment plant) with all revenue collected being escrowed into a special reserve to be used only for the payment of penalties and for upgrades to the system.

\$5.54 per 1,000 gallons of sewage treated if maximum daily flows exceed 3,000,000 gallons (post upgrade of treatment plant) with all revenue collected being escrowed into a special reserve to be used only for the payment of penalties and for upgrades to the system.

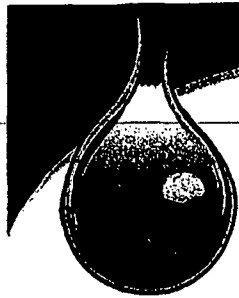
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WEST VIRGINIA

Infrastructure & Jobs Development Council

Gov. Joe Manchin, III
Chairman

Kenneth Lowe, Jr.
Public Member

Dwight Calhoun
Public Member

David "Bones" McComas
Public Member

Ron Justice
Public Member

Angela K. Chestnut, P.E.
Executive Director

Barbara J. Pauley
Administrative Secretary

May 10, 2010

William Baisden, General Manager
Logan County PSD
P.O. Box 506
Logan, WV 25601

Re: Logan County Public Service District
Sewer Project 2010S-1180 (Phase IIIA)

Dear Mr. Baisden,

The West Virginia Infrastructure and Jobs Development Council (Infrastructure Council) has reviewed the Logan County Public Service District's (District) preliminary application to extend service to approximately 292 customers in the Upper Crooked Creek, Lower Cooperas Mine Fork and the surrounding areas in the District (Project).

Based on the findings of the Sewer Technical Review Committee, the Infrastructure Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The District should carefully review the enclosed comments of the Sewer Technical Review Committee as the District may need to address certain issues raised in said comments as it proceeds with the Project.

Upon consideration of the preliminary application, the Infrastructure Council determined that the District should utilize a \$1,479,000 Rural Utilities Service loan (2.5%, 40 yrs), a \$8,717,000 Rural Utilities Service grant, and pursue a \$1,500,000 Small Cities Block grant to fund this \$11,696,000 Project. Please contact the West Virginia Development office at 304-558-2234 for specific information on the steps the District needs to follow to apply for these funds. Please note that this letter does not constitute funding approval from this agency.

If you have any questions regarding this matter, please contact Angela K. Chestnut at 304-558-4607 (X201).

Sincerely,

Kenneth Lowe, Jr.

Enclosure

cc: Mike Johnson, P.E., DEP (w/o enclosure) (via e-mail)
Jeanna Bailes, WVDO (w/o enclosure) (via e-mail)
Rick Roberts, P.E., E.L. Robinson Engineering Co.
Jim Boggs, Region II Planning & Development Council



**United States Department of Agriculture
Rural Development
West Virginia State Office**

April 14, 2010

Ben F. Lowe, Chairman
Logan County Public Service District
P.O. Box 506
Logan, WV 25601

Dear Mr. Lowe:

This letter, with Attachments 1 through 8 and enclosures, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered by the State and Area staff of USDA, Rural Development (RD). Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RD loan in the amount of \$1,512,000, an RD grant in the amount of \$8,728,600, and other funding in the amount of \$1,500,000, for a total project cost of \$11,740,600. The other funding is planned in the form of a grant from the HUD Small Cities Block Grant Program.

The loan and grant will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you. The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing.

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. All parties may access our web-site located at www.usda.gov/rus/water/ for the following:

- a. RUS Instruction 1780
- b. RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance"
- c. RUS Bulletin 1780-30, "Water Programs Audit Guide and Compliance Supplement"
- d. RUS Bulletin 1780-31, "Water Programs Compliance Supplement For OMB Circular A-133 Audits"

75 High Street, Federal Building, Suite 320, Morgantown, WV 26505-7500
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Government Auditing Standards (Revision 2007) (Accountant Copy) may be accessed at www.gao.gov/govaud/ybk01.htm.

The enclosures and attachments listed below are attached to the copies as noted.
Enclosed are the following:

- Attachment No. 1 – Project Construction Budget (All Copies)
- Attachment No. 2 – Water and Waste Processing Checklist
- Attachment No. 3 – Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way” (Attorney Copy)
- Attachment No. 4 – Sample Credit Agreement (Applicant Copy)
- Attachment No. 5 – Form RD 1927-9, “Preliminary Title Opinion” (Attorney Copy)
- Attachment No. 6 – Form RD 1927-10, “Final Title Opinion” (Attorney Copy)
- Attachment No. 7 – Labor Standards Provisions
- Attachment No. 8 – Various other RD forms as identified on Attachment No. 2

The conditions referred to above are as follows:

1. **American Recovery and Reinvestment Act of 2009 ("Recovery Act").**

Recovery Act requirements apply to this financing. In addition to the other conditions contained in this Letter of Conditions, you must understand and agree to these following conditions specific to the Recovery Act:

- (a). **Certifications.** With respect to Recovery Act funds made available to State or local governments for infrastructure investments, Section 1511 of the Recovery Act requires the Governor, mayor or other chief executive, as appropriate, to certify that the infrastructure investment has been properly approved as required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. RD Water and Waste personnel will provide specific guidance on the information required in the certification.
- (b). **Reports on Use of Funds.** Section 1512 of the Recovery Act requires each recipient receiving Recovery Act funding to provide specific information to the government on a periodic basis for inclusion in various internal and publicly-available reports. RD Water and Waste Program personnel will provide specific guidance on the type and frequency of information required to assist Recovery Act recipients in complying with this condition.
- (c). **Buy American.** Section 1605 of the Recovery Act requires that all projects financed with Recovery Act funds be bid and constructed using

only iron, steel and manufactured goods produced in the United States in accordance with Section 1605 of the Recovery Act. Specific guidance, including contract provisions to be included in any construction contracts, is being formulated and drafted as of the date of this Letter of Conditions. RD Water and Waste Program personnel will provide specific guidance related to this condition as soon as it is available.

(d). Wage Rate Requirements. Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors for the project will be paid wages at rates not less than those prevailing on projects of a character similar in the locality where this project will occur. (Attachment No. 8)

Compliance with the conditions in this section is required for financing under the Recovery Act. However, these conditions are not substitutes for, or in lieu of, the remaining conditions contained in this Letter of Conditions. Each of the conditions in this Letter of Conditions must also be understood and complied with to receive financing for your project.

2. Fund Usage – Funds obligated under the terms of this letter of conditions are committed on the basis that your project will proceed to the construction stage in an expedient manner. In accordance with RUS Staff Instruction 1782-1, Section 1782.20(u)(5), any funds not disbursed within 60 months from the date of obligation will be de-obligated and returned to the Department of Treasury for further disposition to other RUS project applicants. In the event that USDA determines that your project has not progressed within the five (5) year timeline and that funds will be recaptured, you will be given appeal rights and due process to document reasons why you believe the decision to de-obligate your project funds is not justified.
3. Loan Repayment – The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 2.50% interest rate and a monthly amortization factor of .00340, which provides for a monthly payment of \$5,141. You have the option of participating in the PREAUTHORIZED DEBIT (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due. Your authority must establish and fund monthly a debt service reserve account, which equals 10% of your monthly payment each month until you accumulate the equivalent of one annual installment on your loan.

You are reminded that your PSD may be required to refinance the unpaid balance of its RD loan, in whole or in part, upon the request of RD if at

any time it shall be determined the PSD is able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods or time.

4. **Security** – The loan must be secured by a statutory lien of shared first priority, a pledge of the system's revenues and other agreements between you and RD as set forth in the bond resolution which must be properly adopted and executed by the appropriate officials of your organization. Additional security requirements are contained in RUS Bulletin 1780-12 and RUS Bulletin 1780-27 which are mentioned later.
5. **Users** – This conditional commitment is based upon you providing evidence that you will have at least 1,565 bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of a signed certification from you that identifies and attests to the number of users actually connected to and using the PSD's existing sewer system at the time you request authorization to advertise the proposed project for construction bids. The 263 proposed new users on the system will be required by mandatory hook-up provision to connect to and utilize the system. The PSD must provide a written certification that it will enforce the state statute.

Before RD can agree to the project being advertised for construction bids, you must provide evidence that the total required number of bona fide users has been acquired and currently using the system.

6. **Bond Counsel Services** – The services of a recognized bond counsel are required. The bond counsel will prepare the form of resolution to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions, its attachments and enclosures.
7. **Engineering Services** – It will be necessary for you to obtain the services of an engineer. EJCDC No. 500, "Agreement between Owner and Engineer for Professional Services" (2008 Edition) should be used to obtain the services of an engineer. The EJCDC document is issued under copyright and cannot be provided by RD.
8. **Legal Services** – It will be necessary for you to obtain the services of a local attorney. For your convenience "RUS Legal Services Agreement" is enclosed for your use.
9. **Accounting Services** – It will be necessary for you to obtain the services of a qualified accountant. The accountant must agree to develop and provide the following:

- a. All necessary accounting material required by the Public Service Commission of West Virginia (Rule 42 Exhibit).
- b. Prior to loan/grant closing, your accountant must certify that the accounts and records as required by your bond resolution have been established and are operational.

The Accountant's Agreement should be submitted to RD for review. Compensation in the contract should include only those services identified above and not include payment for construction management services from the accountant unless RD concurrence is obtained.

RUS regulations noted above outline requirements for the submission of management reports and audits. Appropriate state statutes place certain audit requirements on your PSD. "Government Auditing Standards (Revised 2007)", which may be accessed at www.gao.gov/govaud/ybk01.htm, and RUS Bulletins 1780-30 and 1780-31, which may be accessed at our agency website listed above, outline audit requirements.

You are reminded that certain provisions of the Office of Management and Budget Circular A-133 are applicable to any public body or nonprofit association that expends \$500,000 or more in federal funds in any one fiscal year. You must enter into an agreement annually with an accountant (or the State Tax Department) to perform the audit. The agreement must be in accordance with the requirements of the State Tax Commissioner of West Virginia. Compensation for preparation of the A-133 audit or your annual audit are not included in project funds and should be paid from the operational revenues generated from your system operation.

10. **Facility Control** – Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Such evidence must be in the following form:
 - a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
 - b. A copy of deeds, contracts or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form RD 1927-9, "Preliminary Title Opinion" may be used. In the case of your existing system or where the PSD already acquired real property (land or facilities), a preliminary title opinion(s) concerning all such

property(s) will be provided.

- c. A narrative opinion from your attorney concerning all permits, certifications and other items necessary to show that all legal requirements can be met and stating how they will be met. This narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.
 - d. A certification and legal opinion relative to title to rights-of-way and easements. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," may be used. This form may contain a few exceptions such as properties that must be condemned; however, prior to the start of construction or loan closing, whichever occurs first, a new Form RD 442-22, must be provided which does not provide for any exceptions. The attorney's legal opinion should include a certification that all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and West Virginia State Code Chapter 54 have been met in the acquisition of both real property and rights-of-way. Such requirements may include, but are not limited to, distributing informational material to all affected property owners, and completing appraisals of the affected properties.
 - e. On the day of loan closing, the PSD's attorney must furnish final title opinions on all land(s) being acquired. Form RD 1927-10, "Final Title Opinion" may be used. In the case of your existing system or where the PSD has already acquired real property(s) (land or facilities), the PSD's attorney will provide a separate final title opinion(s) covering such property(s) on the day of loan closing.
11. **Permits** – Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits will include but are not limited to the following:
- West Virginia Department of Highways
 - Railroads
 - State Department of Health
 - Department of Environmental Protection
 - Corps of Engineers
 - Public Land Corporation
12. **Public Service Commission Approvals** – You must obtain the following from the West Virginia Public Service Commission:

-
- a. A Certificate of Convenience and Necessity.
 - b. Approval of user charges that are acceptable to you and the Rural Utilities Service.
 - c. Approval of financing for the project's proposed financing arrangements.

The "Rule 42" Exhibit to be attached to the Public Service Commission application must contain at least the information shown in Attachment No. 1. A copy of the Public Service Commission application and its "Rule 42" Exhibit must be provided for review.

13. **Insurance and Bonding** - Prior to loan closing or start of construction, whichever occurs first, you must acquire the types of insurance and bond coverage shown below. The use of deductibles may be allowed providing you have the financial resources to cover potential claims requiring payment of the deductible. RD strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of RD to assure that adequate insurance and fidelity or employee dishonesty bond coverage is maintained.
- a. **General Liability Insurance** – This should include vehicular coverage.
 - b. **Workers' Compensation** – In accordance with appropriate State laws.
 - c. **Position Fidelity Bond(s)** – All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. As a good business practice you will probably wish to have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. During the construction phase of your project, this maximum amount will be much greater than normal; therefore, it is our recommendation that you temporarily increase your coverage to \$1,000,000 (or the estimated highest monthly construction drawdown). Once construction is complete, you may decrease the amount of your coverage. Please note that the cost of the temporary increase in coverage is an eligible project cost.

The minimum coverage acceptable to RD once your project is in operation will be for each position to be bonded for an amount at least equal to one annual installment on your loan(s).

- d. **National Flood Insurance** – In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for

financial assistance for acquisition and/or construction in designated special flood or mudslide prone areas:

- i. If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.
 - ii. Applicants whose buildings, machinery or equipment are to be located in a community which has been notified as having special flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.
- e. Real Property Insurance – Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all above-ground structures, to include machinery and equipment housed therein. This does not apply to water reservoirs, standpipes, elevated tanks or noncombustible materials used in treatment plants, clearwells, filters and the like.

14. Environmental Requirements –

- a. Project Modifications – The project as proposed has been evaluated to be consistent with all applicable environmental requirements. If the project or any project element deviates from or is modified from the original approved project, additional environmental review may be required.

15. Vulnerability Assessments (VA) and Emergency Response Plans (ERP) –

Congress enacted the Public Health Security and Bioterrorism Preparedness Response Act of 2002, Public Law 107-188 (Bioterrorism Act). The Bioterrorism Act amended the Safe Drinking Water (SDWA) to require all medium and large sized community water systems (serving populations greater than 3,300) to assess vulnerability to terrorist attack and develop emergency plans for response to such an attack. Medium and large community water systems are being monitored by the U.S. EPA for completion of VA's and ERP's.

Rural Development requires all financed water and wastewater systems to have a vulnerability assessment (VA) and an emergency response plan (ERP) in place. New water or wastewater systems must provide a certification that an ERP is complete prior to the start of operations. A certification that a VA is complete must be submitted within one year of the start of operations. All other borrowers must provide a certification that a VA and ERP are complete prior to bid authorization.

You will also be required to provide a certification that the VA and ERP is complete and is current every three years after the start of operations. RD does

not need or want a copy of the VA or ERP. The requested certification will be sufficient to meet our needs. Technical assistance providers are available to provide you with on site assistance if desired.

16. **Civil Rights & Equal Opportunity** – You should be aware of and will be required to comply with other federal statute requirements including but not limited to:

Section 504 of the Rehabilitation Act of 1973 – Under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving RD financial assistance.

Civil Rights Act of 1964 – All borrowers are subject to, and facilities must be operated in accordance with, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and subpart E of part 1901 of this title, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by paragraph 1901.202(e) of this title.

The Americans with Disabilities Act (ADA) of 1990 – This Act (42 U.S.C. 12101 *et seq.*) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by State and local public entities which provides services, programs and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities which accommodate the public.

Age Discrimination Act of 1975 – This Act (42 U.S.C. 6101 *et seq.*) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

RD financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap.

17. **Contract Documents, Final Plans and Specifications** –

- a. The contract documents should consist of the following:

- (1) EJCDC Document No. C-520, 2007 Edition, "Suggested Form of Agreement between Owner and Contractor for Construction

Contract (Stipulated Price)" and EJCDC Document No. C-700, 2007 Edition, "Standard General Conditions of the Construction Contract," and Attachments. The EJCDC documents are issued under copyright and cannot be provided by RD.

- (2) "RUS Supplemental General Conditions."
- (3) "Labor Standards Provisions" – Title 29, Subtitle A, Part 5, Section 5.5; Contract Provisions and Related Matters. One copy of this item is attached hereto (Attachment No. 7). Additional copies must be reproduced by the engineer.

RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance (October 2009 Version)," is enclosed for use by your engineer in the preparation of the contract documents.

- b. The contract documents must provide, as a minimum, the following insurance:
 - (1) Liability Insurance – Personal Liability - \$500,000; Property Damage - \$200,000 - \$200,000. This coverage must include indemnification of the PSD and its engineer. EJCDC Document C-700, "Standard General Conditions of the Construction Contract" and Exhibit G to RUS Bulletin 1780-26, "Supplementary Conditions" both suggest certain limits of liability for insurance coverage. Those limits should be considered as minimum requirements only. It is recommended you consider increasing the given limits of liability after analyzing your specific needs.
 - (2) Builder's Risk Insurance – On all structures and mechanical and electrical equipment in place or stored on the site to the full insurable value thereof.
 - (3) Workers' Compensation – In accordance with applicable State laws.
- c. The contract documents and final plans and specifications must be submitted to RD for approval.
- d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.

-
18. **State Prevailing Wage Law** - You should ensure that all requirements of Article 5A of the West Virginia State Prevailing Wage Law, "Wages for Construction of Public Improvements" are met during construction of the project.
 19. **Interim Financing** - Interim financing will be used for the RUS loan if it is available at reasonable rates and terms. You must provide RUS with a copy of the tentative agreement reached in connection with interim financing. A copy of the proposed agreement should be provided for RUS review. A Sample Credit Agreement is attached for your use in meeting this requirement (Attachment No. 4).
 20. **Disbursement of Funds** - The RD funds will be advanced as they are needed in the amount(s) necessary to cover the RD proportionate share of any disbursements required of your PSD, over 30 day periods. Funds will be disbursed by electronic transfer of funds.

Any RD grant funds not disbursed immediately upon receipt must be deposited in an interest bearing account except as follows:

- a. Federal grant awards (includes all federal funding sources) are less than \$120,000 per year.
- b. The best available interest bearing account would not be expected to earn in excess of the following:

Public Bodies

Interest earned on grant funds in excess of \$100 per year will be submitted to RD at least quarterly as required in 7 CFR 3016.

- c. The depository would require a minimum balance so high that it would not be feasible.

The PSD will establish a separate fund, to be known and hereafter referred to as the Construction Account, with a lending institution insured by the Federal Deposit Corporation. The account shall be used solely for the purpose of paying the costs of the project as outlined in the construction budget. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the Construction Account. All deposits in excess of \$250,000 will be secured by a collateral pledge in accordance with Treasury Circular Number 176.

The PSD must assure that all project funds are expended only for the eligible items included in the final project budget or as may be later approved by RD.

21. **Other Project Funds** – Prior to advertisement for construction bids, you must provide evidence showing the approval of any other project funds. This evidence should include a copy of the funding award. Prior to award of the contract(s) to the contractor(s), you must provide evidence that the other project funds are available for expenditure. This evidence should consist of at least a letter from the funding agency stating the funds are available for expenditure.
22. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:
- Form RD 1940-1 – “Request for Obligation of Funds”
 - RUS Bulletin 1780-12 – “Water or Waste System Grant Agreement”
 - RUS Bulletin 1780-27 – “Loan Resolution (Public Bodies)”
 - Form RD 400-1 – “Equal Opportunity Agreement”
 - Form RD 400-4 – “Assurance Agreement”
 - Form AD 1047 – “Certification Regarding Debarment – Primary”
 - Form AD 1049 – “Certification Regarding Drug-Free Workplace”
 - Form RD 1910-11 – “Applicant Certification, Federal Collection Policies”
 - RD Instruction 1940-Q, Exhibit A-1, “Certification for Contracts, Grants and Loans”
 - Standard Form LLL – “Disclosure of Lobbying Activities” (If Applicable)
 - Certification of Compliance
 - Form RD 1942-46, “Letter of Intent to Meet Conditions”
23. The enclosed Water and Waste Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan and grant docket. All the items listed must be included in the loan [and grant] docket when it is forwarded to the USDA – Rural Development State Office with a request for loan closing instructions to be issued.
24. Upon receipt of the loan and grant docket, which contains all the items required above, RD may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide RD with (a) a bid tabulation, (b) recommendations from you and your engineer as to the acceptability of the bids received, and (c) your recommendations for contract awards. If all parties then agree the construction bids received are acceptable, it is determined that adequate funds are available to cover the total facility costs, and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed. When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

Any applicant contribution shall be considered as the first funds expended. After providing for all authorized costs, any remaining RD project funds will be considered to be RD grant funds and refunded to RD. If the amount of unused RD project funds exceeds the RD grant, that part would be RD loan funds and would be applied as an extra payment toward the loan balance.

If the conditions set forth in this letter are not met within twelve (12) months from the date hereof, RD reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the twelve-month period and it is determined the authority still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If during that review, it is determined the budget is no longer current and/or adequate, RD reserves the right to require that it be revised or replaced.

We believe the information herein clearly sets forth the actions which must be taken; however, if you have any questions, please do not hesitate to contact me.

Sincerely yours,


BOBBY LEWIS
State Director

Enclosures

cc: Tracey Rowan
Community Programs Specialist

Abraham & Ilderton, PLLC
115 Prosperity Lane
Logan, WV 25601

E.L Robinson
5088 Washington Street, West
Charleston, West Virginia 25313

Samme Gee
1600 Laidley Tower
P.O. Box 553
Charleston, West Virginia 25322

Griffith and Associates, PLLC
950 Coal River Road
Alum Creek, West Virginia 25003

PROJECT CONSTRUCTION BUDGET

<u>PROJECT COST</u>	<u>SCBG</u>	<u>RUS LOAN</u>	<u>RUS GRANT</u>	<u>TOTAL</u>
CONSTRUCTION	\$ 1,107,000	\$ 1,099,000	\$ 6,644,000	\$ 8,850,000
CONST. CONTINGENCY	\$ 110,700	\$ 86,300	\$ 688,000	\$ 885,000
LAND & RIGHTS	\$ 7,500	\$ 7,500	\$ 45,000	\$ 60,000
LEGAL FEES - LOCAL	\$ 6,250	\$ 6,250	\$ 37,500	\$ 50,000
LEGAL FEES - PSC	\$ 2,000	\$ 2,000	\$ 11,000	\$ 15,000
BOND COUNSEL	\$ 2,500	\$ 2,500	\$ 17,000	\$ 22,000
ACCOUNTING	\$ 3,000	\$ 3,000	\$ 19,000	\$ 25,000
ENGINEERING FEES	\$ 179,000	\$ 179,000	\$ 1,080,000	\$ 1,438,000
Design - \$518,000				
Insp. - \$390,000				
Eng. Const. - \$115,000				
Special - \$415,000				
INTEREST		\$ 75,600		\$ 75,600
INTERM FINANCING		\$ 20,000		\$ 20,000
PERMIT FEES	\$ 7,500	\$ 7,500	\$ 37,500	\$ 50,000
ADMINISTRATION	\$ 50,000			\$ 50,000
PROJECT CONTG.	\$ 24,550	\$ 23,350	\$ 149,600	\$ 200,000

TOTAL	\$ 1,500,000	\$ 1,512,000	\$ 8,728,600	\$11,740,600
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Applicability

Applicable within the entire territory served

Availability

Available for domestic, commercial, industrial (except unusual industrial waste) and resale sewer service.

Rates

First	10,000	gallons @	\$13.20	per M gallons
All over	10,000	gallons @	\$10.31	per M gallons

Minimum Charge (customers with a metered water supply)

Each customer shall pay a minimum charge of: \$33.00
 (Equivalent to 2,500 gallons of water usage)

Flat-Rate Charge (customers with non-metered water supply)

Each customer shall pay a minimum charge of: \$59.40
 (Equivalent to 4,500 gallons of water usage)

Delayed Payment Penalty

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

Sewer Service Connection Charge

\$350.00

The following charges are to be made whenever the utility installs a new tap to serve an applicant

A tap fee of \$150.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. The pre-construction tap fee will be invalid after the completion of construction adjacent to the applicant's premises that is associated with a certificate proceeding

A tap fee of \$450.00 or the actual cost of the connection (solely determined by the Utility) whichever is greater, will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system

Returned Check Charge

\$25.00

A service charge will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason

Disconnect Charge/Reconnection Charge/Administrative Fee

Water service will not be restored until all past due water bills have been paid in full and all accrued penalties plus a disconnection charge of \$25.00 has been paid.

There shall be a \$25.00 reconnection charge paid prior to restoration of water service which has been previously disconnected for any reason.

In the event that the Utility staff or agents collect money at the customer's residence in order to stop disconnection, an administrative fee of \$25.00 shall be paid in addition to other charges to prevent disconnection.

Incremental Costs

\$3.50 per 1000 gallons

An amount not to exceed \$3.50 per 1,000 gallons is used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage. The Utility shall establish a nondiscriminatory policy regarding this provision for leak adjustments.

EFT, Credit Card and Drop Box Payments

A service charge shall be imposed on EFT, credit card, or drop box payments. The amount shall be equal to the actual charges to the Utility for the financial institution for processing payment.

Use and Income Analysis - See Attached

Cash Flow Analysis - See Attached

Logan County PSD/Phase IIIA
CASH FLOW ANALYSIS

OPERATING INCOME

Metered Sales	\$ 1,027,340
Forfeited Discounts/Penalties	\$ 24,656
Other Sewer Revenues	\$ 2,200
Annual Tap Fees	
TOTAL OPERATING INCOME	<u>\$ 1,054,196</u>

NON OPERATING INCOME

Interest income	\$ 1,794
TOTAL NON OPERATING INCOME	<u>\$ 1,794</u>

TOTAL INCOME

\$ 1,055,990

EXPENSES

O & M	\$ 546,868
Taxes	\$ 11,934
TOTAL EXPENSES	<u>\$ 558,802</u>

INCOME AVAILABLE FOR D/S (A)

\$ 497,188

DEBT SERVICE

Existing Bond P&I	\$ 343,841
Proposed Bond P & I	\$ 61,692
TOTAL DEBT SERVICE (B)	<u>\$ 405,533</u>

DEBT SERVICE RESERVE

Debt Service Reserve	\$ 40,554
Depreciation Reserve (2.5% metered sales)	\$ 25,683
Annual Capitol Outlay	\$ 24,900
TOTAL RESERVE	<u>\$ 91,137</u>

SURPLUS (DEFICIT)

\$ 518

DEBT COVERAGE (A/B)

122.60%

**Attachment No. 1 to Letter of Conditions
For: Logan County PSD/Phase IIIA
Date: April 14, 2010**

**Logan County PSD
USE AND INCOME ANALYSIS
EXISTING RESIDENTIAL CUSTOMERS**

		METERED		NON-METERED				
Blocking	Cust.	Gal/ Mo.	Minimum Bills	Minimum Bills	First 2,500	Next 7,500	Over 10,000	TOTAL REVENUE
0-2500	359		359	1				
2501-10000	836	3,512.38			2,089.79	1,422.58		
Over 10,000	22	384.75			55.63	186.88	142.25	

Monthly Total	1,217.00	3,877.13	359.00	1.00	2,145.42	1,589.46	142.50
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Proposed Rates	\$	33.00	\$	59.40	\$	13.20	\$	13.20	\$	10.31
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Monthly Revenues	\$ 11,847.00	\$ 59.40	\$ 28,319.54	\$ 20,980.87	\$ 1,469.18	\$ 62,675.99
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Annual Revenues	\$ 142,164.00	\$ 712.80	\$ 339,834.53	\$ 251,770.46	\$ 17,630.10	\$ 752,111.89
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Adjustment Factor:	0.98
Projected Annual Revenue	\$ 737,069.65

Attachment No. 1 to Letter of Conditions
 For: Logan County PSD/Phase IIIA
 Date: April 14, 2010

Logan County PSD
 USE AND INCOME ANALYSIS
 EXISTING COMMERCIAL CUSTOMERS

Blocking	Cust.	Gal/ Mo.	METERED	NON-METERED	First 2,500	Next 7,500	Over 10,000	TOTAL REVENUE					
			Minimum Bills	Minimum Bills									
0-2500	44		44										
2501-10000	25	129.61			62.08	67.50							
Over 10,000	16	863.48			40.42	121.25	701.82						
Monthly Total	85.00	993.09	44.00	0.00	102.50	188.75	701.82						
Proposed Rates		\$	33.00	\$	59.40	\$	13.20	\$	10.31				
Monthly Revenues		\$	1,452.00	\$	-	\$	1,353.00	\$	2,491.50	\$	7,235.76	\$	12,532.26
Annual Revenues		\$	17,424.00	\$	-	\$	16,236.00	\$	29,898.00	\$	86,829.17	\$	150,387.17
										Adjustment Factor:		0.98	
										Adjusted Annual Revenue		\$ 147,379.43	

Attachment No. 1 to Letter of Conditions
 For: Logan County PSD/Phase IIIA
 Date: April 14, 2010

Logan County PSD
 USE AND INCOME ANALYSIS
 NEW RESIDENTIAL USERS

Blocking	Cust.	Gal/ Mo.	METERED Minimum Bills	NON-METERED Minimum Bills	First 2,500	Next 7,500	Over 10,000	TOTAL REVENUE
0-2500								
2501-10000	263	920.50			657.50	263.00		
Over 10,000								

Monthly Total	263.00	920.50	0.00	0.00	657.50	263.00		
Proposed Rates			\$ 33.00	\$ 59.40	\$ 13.20	\$ 13.20	\$ 10.31	
Monthly Revenues			\$ -	\$ -	\$ 8,679.00	\$ 3,471.60	\$ -	\$ 12,150.60
Annual Revenues			\$ -	\$ -	\$ 104,148.00	\$ 41,659.20	\$ -	\$ 145,807.20
					Adjustment Factor:		0.98	
					Adjusted Annual Revenue:		\$ 142,891.06	

**UNITED STATES DEPARTMENT OF AGRICULTURE
 RURAL UTILITIES SERVICE
 Water and Waste Processing Checklist**

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
SF 424.2	Application for Federal Assistance	3	1780.31(b)	Applicant		Have	3
	DUNS Numl	1		Applicant		Have	3
	CAIVRS Number	1		RUS		Have	CPAP Form
	Public Notice of Intent to File App./ Env. Notice	3	1780.19(a) 1794	Applicant		Have	3
Bulletin 1780-22	Applicant Eligibility Certification/ Other Credit Certification	1	1780.33(d)	Applicant		Have	3
	Bond Ordn. or Resol. On Outstanding Debts	1	1780.33(e)	Applicant/ Attorney		Have	5
	Audit for last year of operation	1	1780.33(e)	Applicant/ Accountant		Have	1
	Staff Review Financial Statements	1	S.I. 1780.2	RUS			1
EJCDC No. E-510-FA	Agreement between Owner & Engineer	3	1780.39(b)	Applicant/ Engineer		Have	6

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
RUS Legal Services Agreement	Legal Services Agreement with Local Attorney	3	1780.39 (b)(2)	Applicant/ Attorney		Have	5
	Site Visit		S.I. 1780-2	RUS			3
	Processing Conference	1	1780.39(a)	RUS			3
	Environmental Report	2	1794	Applicant			3
	Environmental Assessment	2	1794	RUS/ Engineer			3
	FONSI/ Evidence of Publication	1	Exhibit 1 RUS 1794 News Ad	RUS/ Applicant			3
Bulletins 1780-2 1780-3	Preliminary Engineering Report	2	1780.33(c)	Engineer		Have	6
	Staff Engineer PER Review	1	1780.33(c)	RUS			3
	Bill Analysis for existing system(s)	2	1780.33(c)	Applicant/ Engineer		Have	8
	Projected Bill Analysis for New Users	2	1780.33(c)	Applicant/ Engineer		Have	8
	Statement reporting the <u>total</u> number of <u>potential</u> users		1780.33(c)	Applicant/ Engineer		Have	8
	Rate Tariff	2	1780.33	Applicant		Have	8
	Applicant's IRS Tax Number(TIN	1	1780.33(g)	Applicant		Have	3

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
Bulletin 1780-1	Agency Determination on the Availability of "Other Credit" with Documentation	1	1780.7(d)	RUS		Have	3
	Documentation on Service Area	1	1780.11	RUS		Have	3
	Project Selection Criteria	2	1780.17	RUS		Have	1
	Letter of Conditions	7	1780.41 (a)(5)	RUS			3
AD 1049	Certification Regarding Drug-Free Workplace	1	1780.33(h)	Applicant			5
	Minutes Adopting Drug-Free Workplace Program	1	LOC	Applicant			5
Exhibit A / A-1	Certifications Regarding Lobbying	2	1780.33(h)	Applicant			2
CPAP Form	Project Information	2	1780.41(a)	RUS			1
CPAP Form	Underwriting Information	2	1780.33(h)	RUS		Have	3
RD 1940-1	Request for Obligation of Funds	2	1780.41(a)	RUS/ Applicant			2

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
Bulletin 1780-12	Association Water or Sewer System Grant Agreement	2	1780.45(c)	RUS/ Applicant			2
RD 1942-46	Letter of Intent to Meet Conditions	2	1780.41 (a)(6)	Applicant			3
AD 1047	Certification Regarding Debarment (Primary)	1	1780.33(h)	Applicant			5
	Relationships/ Associations with Agency Employees	1	1780.1(f)	RUS			3
RD 1910-11	Applicant Certification, Federal Collection Policies	1	1780.33(h)	Applicant			3
Bulletin 1780-27	Loan Resolution	1	1780.45 (a)(2)	Applicant			5
RD 400-1	Equal Opportunity Agreement	1	1901-E	Applicant			6
RD 400-4	Assurance Agreement	1	1901-E	Applicant			3
	Legal Services Agreement with Bond Counsel	1	1780.39 (b)(3)	Applicant/ Bond Counsel			5
	Agreement for Accounting Services	1	1780.39 (b)(2)	Applicant/ Accountant			5
	Sewer Users Agreement or State Health Dept. Mandatory Hook-Up Commitment Ltr.	1	1780.39 (c)(3)	Applicant			5

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
Evidence of Users:							
1. Certification Relative to Existing Users							
		1	LOC	Applicant			5
2 Verification of Users							
		1	1780.44(b)	RUS			3
Accountant's Certification							
		1	LOC	Applicant/ Accountant			3
RUS Review of Accounting Records							
		1	S.I. 1780-4 (1)(ii)	RUS			3
Copy of PSC Rule 42 Exhibit							
		1	State	Attorney/ Accountant			3
Lender Agreement/ Bulletin 1780-10/ 1780-10a	Interim Financing Documenta- tion	1	1780.39(d)	Applicant/ RUS			1
	DOH Permit	1	1780.15(d)	Applicant			6
	Railroad Permit	1	1780.15(d)	Applicant			6
	Public Land Corp. Permit	1	1780.15(d)	Applicant			6
	Corps of Engineers Permit	1	1780.15(d)	Applicant			6
	Dept. of Health Approval	1	1780.15(d)	Engineer			6
	Dept. of Environmental Protection Permit	1	1780.15(d)	Engineer			6

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
	Contract Documents, Plans & Specifications	2	1780.61(a)	Engineer			Separate File
	Agency Determination on Procurement	1	1780.70(d)	RUS			6
	Preliminary Bond Transcript Documents w/o Defeasance Provisions	2	1780.83	Bond Counsel			5
	Right-of-Way Map	1	1780.44(g)	Engineer			Separate File
	Deeds and/or Options		1780.44.(g)	Applicant/ Attorney			5
RD 1927-9	Preliminary Title Opinion	1	1780.44 (g)(2)	Applicant/ Attorney			5
	Narrative Opinion from Attorney	1	1780.44(g)	Attorney			5
	Waiver of Title Defects Letter	1	1780.44(g)	RUS			5
RD 442-22	Opinion of Counsel Relative to R/Ways		1780.44 (g)(1)	Attorney			5
	Review of Outstanding Judgment	1	1780.7(g)	RUS/ Attorney			3
	Operation and Maintenance Agreement	1	1780.39 (b)(4)	Applicant			5
	Evidence of "Other Funds"	1	1780.44(f)	Applicant			2

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
SF 3881	Evidence of Applicant Contribution	1	1780.44(f)	Applicant			2
	Electronic Funds Transfer Payment Enrollment Form	1	31 CFR 208	Applicant/ Financial Institution			2
	Positive Program to Encourage Connections when Completed	1	1780.39 (c)(5)	Applicant			5
RD 442-10	Appraisal Report	1	1780.44(g)	RUS			8
	Documentation Relative to Health or Sanitary Hazards	1	1780.1 (c)(1) 1780.13 (b)(1)	RUS/State Health Department			2
	PSC Approval	1	1780.15(b)	Applicant/ Attorney			6
(Existing borrowers)	Certifications on VA and ERP	1		Applicant			5
	Bid Tabulation	1	1780.61(b)	Engineer			6
	OGC Closing Instructions	1	1780.44(h)	RUS			5
	S/O Closing Instructions	1	1780.44(h)	RUS			5
RD 1927-10	Final Title Opinion	1	1780.44 (g)(2)	Applicant/ Attorney			5
	Bond Transcript Documents w/o Defeasance Provisions	3	1780.83	Bond Counsel			Separate File
RD 400-8	Compliance Review	1	1780.44(c)	RUS			5

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
	Liability Insurance	1	1780.39(g)	Applicant			7
	Workers' Compensation Certificate	1	1780.39(g)	Applicant			7
	Flood Insurance Policy	1	1780.39(g)	Applicant			7
440-24	Fidelity Bond	1	1780.39(g)	Applicant			7
1924-16	Record of Pre-Construction Conference	1	1780.76(a)	RUS/ Engineer			6
AD 1048	Certification Regarding Debarment (Contractor)	1 each	1780.33(h)	All Appropriate Vendors			5
	OGC Final Opinion	1	1780.45(g)	RUS			5



**United States Department of Agriculture
Rural Development
West Virginia State Office**

January 7, 2013

Mr. Ben Lowe, Chariman
Logan County PSD
P.O. Box 506
Logan, West Virginia 25570

**SUBJECT: Logan PSD Phase 3A Sewer Project
(RD Loan - \$1,512,000; RD Grant - \$8,728,600)
Closing Instructions**

Dear Chairman Lowe:

The preliminary closing for the subject loan and grant will be held on January 22, 2013, at 10:00 am at the Logan PSD office (official closing date is January 24, 2013). The loan and grants must be handled and closed in accordance with your letter of conditions dated April 14, 2010. All of the requirements of those letters must be met and in addition, the loans and grants must be closed in accordance with RD Instruction 1942-A and RUS Instruction 1780. The following instructions and comments are offered:

1. RUS will sign and date the RUS Bulletin 1780-12 "Water and Waste System Grant Agreements".
2. Form AD 1048, "Certification Regarding Debarment – Lower Tier Covered Transactions," should be provided on contractors.
3. Form RD 1927-10, "Final Title Opinion," effective the date of loan closing (January 24, 2013) must be provided for all property owned by the PSD.
4. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," must be provided showing no exceptions dated for January 24, 2013.
4. A narrative from your attorney dated January 24, 2013 concerning all permits, certifications, or other items necessary to show all legal requirements can be met. This narrative should identify the condemnation proceedings and how they will be handled now that right of entry has been obtained. This should include a certification that all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and WV State Code Chapter 54 have been met with all acquisitions.

75 High Street Federal Building • Suite 320 • Morgantown, WV 26505-7500
Phone: 304.284.4860 • 1.800.295.8228 • Fax: 304.284.4893 • TTY/TDD: 304.284.4836 • Web: <http://www.rurdev.usda.gov/wv>

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."

To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).

5. The certification on the Loan Resolution will need to be completed at closing.
6. The loan for \$1,512,000 was obligated at the intermediate interest rate of 2.5%; however, effective January 1, 2013 this rate is at 1.875% and Bond Counsel will be notified with a copy of this letter. **The monthly payment will be \$4,642.00.**
7. On January 22, 2013, the date of the preliminary closing, the applicant must provide evidence of all required insurance and position fidelity bond coverage in compliance with Item 11 of the letter of conditions.
8. A compliance review will need to be conducted by the RUS prior to the start of construction.
9. All professional services agreements must be executed prior to loan closing.

If you have any questions regarding the above, please do not hesitate to contact me at (304) 776-5298 ext. 116.

Sincerely,

Tracey Rowan
Area IV Director

cc: USDA State Director
Samme Gee
Rick Roberts
Randall Lewis
Brian Abraham
Michael Griffith

LOAN RESOLUTION
(Public Bodies)A RESOLUTION OF THE Board of DirectorsOF THE Logan County Public Service DistrictAUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING
PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS
Sewer

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO

WHEREAS, it is necessary for the Logan County Public Service District
(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

ONE MILLION FIVE HUNDRED TWELVE THOUSAND AND XX / 100 DOLLARS (\$1,512,000.00)pursuant to the provisions of Chapter 16 Article 13A, West Virginia Code ; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$ 8,728,600

under the terms offered by the Government; that the Chairman

and Secretary of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was: Yeas 3 Nays 0 Absent 0

IN WITNESS WHEREOF, the Board of Directors of the

Logan County Public Service District has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this _____, _____ day of _____

Logan County Public Service District

(SEAL)

Attest:

By Mike Stone

Title Chairman

Title Secretary

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Secretary of the Logan County Public Service District
hereby certify that the Board of Directors of such Association is composed of
3 members, of whom, 3 constituting a quorum, were present at a meeting thereof duly called and
held on the 3 day of May 25, 2010; and that the foregoing resolution was adopted at such meeting
by the vote shown above, I further certify that as of January 24, 2013,
the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been
rescinded or amended in any way.

Dated, this 22 day of January, 2013

Ben F. Lowe Jr.

Title Chairman

**LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)**

BOND RESOLUTION

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LOGAN COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF NEW PUBLIC SEWER FACILITIES OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$1,512,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2013 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF LOGAN COUNTY PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution (together with any order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is adopted pursuant to the provisions of Chapter 16, Article 13A, of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. Logan County Public Service District (the "Issuer") is a public service district, public corporation and political subdivision of the State of West Virginia in Boone, Logan, Lincoln, Mingo and Wyoming Counties of said State.

B. The Issuer presently owns and operates a public wastewater collection and treatment system (together with the Project, as hereinafter defined, and any further improvements or extensions thereto are herein called the "System"). However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer additions and improvements to the System be constructed (collectively, the "Project"), which constitute public service properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government").

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds in the total aggregate principal amount of not more than \$1,800,000, in one series, being the Sewer Revenue Bonds, Series 2013 A (United States Department of Agriculture) (the "Series 2013 A Bonds" or the "Series 2013 Bonds"), to permanently finance a portion of the costs of acquisition and construction of the Project. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2013 Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, , discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2013 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2013 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 40 years.

F. It is in the best interests of the Issuer that the Series 2013 A Bonds be sold to the Government pursuant to the terms and provisions of the Letter of Conditions (as hereinafter defined).

G. The Series 2013 Bonds shall be issued on a parity with the Issuer's (1) Sewer Revenue Bonds, Series 2002 A (West Virginia SRF Program) dated December 12, 2002, issued in the original aggregate principal amount of \$5,328,940 (the "Series 2002 A Bonds"); (2) Sewer Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund) dated December 12, 2002, issued in the original aggregate principal amount of \$2,190,000 (the "Series 2002 B Bonds"); (3) Sewer Revenue Bonds, Series 2002 C (United States Department of Agriculture) dated December 12, 2002, issued in the original aggregate principal amount of \$300,000 (the "Series 2002 C Bonds"); and (4) Sewer Revenue Bonds, Series 2008 A West Virginia Infrastructure Fund) dated April 9, 2008, issued in the original aggregate principal amount of \$4,500,000 (the "Series 2008 A Bonds" and together with the Series 2002 A Bonds, the Series 2002 B Bonds and the Series 2002 C Bonds, the "Prior Bonds"). There are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

H. The estimated revenues to be derived in each year following completion of the Project from the operation of the System will be sufficient to pay all Operating Expenses of the System and the principal of and interest, if any, on the Series 2013 Bonds and to make payments into all funds and accounts and other payments provided for herein.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2013 Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation the obtaining of a certificate of public convenience and necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia (the "PSC") by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2013 Bonds or such final order will not be subject to appeal or rehearing.

J. The Project has been reviewed and determined to be technically and financially feasible by the West Virginia Infrastructure and Jobs Development Council as required under Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2013 Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall

constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2013 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

“Act” means, collectively, Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended and in effect on the date of adoption hereof.

“Authorized Officer” means the Chairperson of the Governing Body of the Issuer or any temporary Chairperson duly elected by the Governing Body.

“Bondholder,” “Holder of the Bonds,” “Holder,” “Registered Owner” or any similar term whenever used herein with respect to an outstanding Bond or Bonds, means the person in whose name such Bond is registered.

“Bond Legislation,” “Resolution,” “Bond Resolution” or “Local Act” means this Bond Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

“Bond Registrar” means the Issuer and its successors and assigns.

“Bonds” means, collectively, the Series 2013 Bonds, the Prior Bonds and any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

“Bond Year” means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year, except that the first Bond Year shall begin on the Closing Date.

“Chairperson” means the Chairperson of the Governing Body of the Issuer.

“Closing Date” means the date upon which there is an exchange of the Series 2013 Bonds for all or a portion of the proceeds of the Series 2013 Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, and the Regulations.

“Commission” means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

“Consulting Engineers” means E.L. Robinson Engineering Co., Charleston, West Virginia, or any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System or portion thereof in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

“Costs” or “Costs of the Project” means those costs described in Section 1.02D hereof to be a part of the cost of acquisition and construction of the Project.

“Depository Bank” means the bank or banks designated as such in the Supplemental Resolution and any successors and assigns, which shall be a member of FDIC.

“FDIC” means the Federal Deposit Insurance Corporation and any successor to the functions of the FDIC.

“Fiscal Year” means each 12-month period beginning on July 1 and ending on the succeeding June 30.

“Governing Body” or “Board” means the public service board of the Issuer, as it may now or hereafter be constituted.

“Government” means the United States of America, United States Department of Agriculture, Rural Utilities Service, which is expected to be the original purchaser of the Series 2013 Bonds.

“Government Obligations” means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

“Grants” means all moneys received by the Issuer on account of any Grant for the Project.

“Gross Revenues” means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that **“Gross Revenues”** does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article 8.01 hereof) or any Tap Fees, as hereinafter defined.

“Herein,” “hereto” and similar words shall refer to this entire Bond Legislation.

“Independent Certified Public Accountants” means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

“Investment Property” means:

- (A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),
- (B) any obligation,
- (C) any annuity contract,
- (D) any investment-type property, or
- (E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

Except as provided in the following sentence, the term **“Investment Property”** does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C) of the Code), the term **“Investment Property”** includes a specified private activity bond (as so defined).

“Issuer” means Logan County Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in

Boone, Logan, Lincoln, Mingo and Wyoming Counties, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“Letter of Conditions” means, collectively, the Letter of Conditions of the Government dated April 14, 2010, and all amendments thereto.

“Managing Engineer” means the Managing Engineer of the Issuer or any successor thereto.

“Net Proceeds” means the face amount of the Series 2013 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Reserve Accounts. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2013 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

“Net Revenues” means the balance of the Gross Revenues, remaining after deduction of Operating Expenses, as hereinafter defined.

“Nonpurpose Investment” means any Investment Property as defined in Section 148(b) of the Code, that is not a purpose investment.

“Operating Expenses” means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the costs, the SRF Administrative Fee, as defined in the Prior Resolutions, fees and expenses of the Authority, fiscal agents, the Depository Bank, the Registrar and the Paying Agent (all as herein defined), other than those capitalized as part of the costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that “Operating Expenses” does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“Outstanding,” when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond canceled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium,

if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

“Parity Bonds” means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

“Prior Bonds” means the Prior Bonds as described in Section 1.02G of this Resolution.

“Prior Resolutions” means the Resolutions authorizing the Prior Bonds.

“Private Business Use” means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that, use as a member of the general public shall not be taken into account.

“Project” means the Project as described in Section 1.02B of this Resolution.

“PSC” means the Public Service Commission of West Virginia and any successor to the functions thereof.

“PSC Order” means, collectively, the final order or orders of the PSC, granting the Issuer a certificate of convenience and necessity to construct the Project and approving the financing for the Project and the rates of the System.

“Qualified Investments” means and includes any of the following:

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the Board of Treasury Investments pursuant to Chapter 12, Article 6C of the Code of West Virginia, 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Registrar" means the Bond Registrar.

“Regulations” means temporary and permanent regulations promulgated under the Code or any predecessor to the Code.

“Renewal and Replacement Fund” means the Renewal and Replacement Fund created by Section 5.01 hereof.

“Reserve Accounts” means, collectively, the respective reserve accounts created for the Series 2013 Bonds and the Prior Bonds.

“Reserve Requirement” means, collectively, the respective amounts required to be on deposit in the Reserve Accounts.

“Revenue Fund” means the Revenue Fund created by the Prior Resolutions.

“Secretary” means the Secretary of the Governing Body of the Issuer.

“Series 2002 A Bonds” means the Sewer Revenue Bonds, Series 2002 A (West Virginia SRF Program), of the Issuer, authorized by the Prior Resolutions.

“Series 2002 B Bonds” means the Sewer Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), of the Issuer, authorized by the Prior Resolutions.

“Series 2002 C Bonds” means the Sewer Revenue Bonds, Series 2002 C (United States Department of Agriculture), of the Issuer, authorized by the Prior Resolutions.

“Series 2008 A Bonds” means the Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), of the Issuer, authorized by the Prior Resolutions.

“Series 2013 Bonds” means the Series 2013 A Bonds.

“Series 2013 A Bonds” means the Sewer Revenue Bonds, Series 2013 A (United States Department of Agriculture), of the Issuer, authorized by this Resolution.

“Series 2013 A Bonds Construction Trust Fund” means the Series 2013 A Bonds Construction Trust Fund created by Section 5.01 hereof.

“Series 2013 A Bonds Reserve Account” means the Series 2013 A Bonds Reserve Account created by Section 5.02 hereof.

“Series 2013 A Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2013 A Bonds in the then current or any succeeding year.

“Series 2013 A Bonds Sinking Fund” means the Series 2013 A Bonds Sinking Fund created by Section 5.03(a)(2) hereof.

“Sinking Funds” means, collectively, the respective sinking fund created for the Series 2013 A Bonds.

“State” means the State of West Virginia.

“Supplemental Resolution” means any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article “the,” refers specifically to the supplemental resolution or resolutions authorizing the sale of the Series 2013 Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2013 Bonds, and not so included, may be included in another Supplemental Resolution.

“Surplus Revenues” means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including, without limitation, the Sinking Funds, the Reserve Accounts and the Renewal and Replacement Fund.

“System” means the complete public service properties of the Issuer for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for the System from any sources whatsoever.

“Tap Fees” means the fees, if any, paid by prospective customers of the System in order to connect thereto.

Additional terms and phrases are defined in this Resolution as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project.

There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of \$11,740,000 in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2013 Bonds shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, in an amount and otherwise compatible with the financing plan submitted to the Government.

The cost of the Project is estimated to be \$11,740,600, of which approximately \$1,512,000 will be obtained from proceeds of the Series 2013 A Bonds, approximately \$1,500,000 will be obtained from a grant by the United States Department of Housing and Urban Development (Small Cities Block Grant through the State of West Virginia) and approximately \$8,728,600 will be obtained from a grant by the Government.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2013 A Bonds, funding the Series 2013 A Bonds Reserve Account for the Series 2013 A Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2013 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2013 Bonds of the Issuer. The Series 2013 Bonds shall be issued in one series, as a single bond, designated as “Sewer Revenue Bonds, Series 2013 A (United States Department of Agriculture),” in the principal amount of not more than \$1,512,000, and each shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2013 Bonds remaining after funding of the Series 2013 A Bonds Reserve Account (if funded from Bond proceeds) and capitalizing interest on the Series 2013 Bonds, if any, shall be deposited in or credited to the Series 2013 Bonds Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 2013 A Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the legal maximum rate, payable monthly on such dates, shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in the Supplemental Resolution or as specifically provided in the Series 2013 A Bonds.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall be dated and shall have such terms as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2013 Bonds shall be executed in the name of the Issuer by the Chairperson, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Series 2013 Bonds shall cease to be such officer of the Issuer before the Series 2013 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2013 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Bond Registrar; Authentication and Registration. The Issuer shall be the Bond Registrar for the Series 2013 A Bonds and will keep, or cause to be kept by its agent, at its office, books for the registration and transfer of the Series 2013 A Bonds and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 2013 A Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 2013 A Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2013 A Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Government, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law. The Series 2013 A Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 2013 A Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2013 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2013 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that such Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2013 Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Bonds.

The registered Series 2013 Bonds shall be transferable only upon the books of the Bond Registrar, by the Registered Owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto, together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the Registered Owner or his duly authorized attorney.

(C2254010.1)

In all cases in which the privilege of exchanging Series 2013 Bonds or transferring the registered Series 2013 Bonds is exercised, all such Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All such Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of such Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on such Bonds or, in the case of any proposed redemption of such Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2013 Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2013 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided on a parity with the Prior Bonds. No Holder or Holders of such Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay such Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2013 A Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System on a parity with the lien of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the

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principal of and interest, if any, on and other payments for the Series 2013 Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2013 A Bonds to the Government as soon as the Government will accept such delivery.

Section 3.10. Form of Bonds. The text of the Series 2013 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2013 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

No. AR-1

\$1,512,000

FOR VALUE RECEIVED, LOGAN COUNTY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Boone, Logan, Lincoln, Mingo and Wyoming Counties of said State (the "Issuer"), promises to pay to the order of the UNITED STATES OF AMERICA (the "Government"), at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, and in the manner provided below, the principal sum of ONE MILLION, FIVE HUNDRED TWELVE DOLLARS (\$1,512,000), or such lesser amount as is set forth on the Record of Advances attached hereto and incorporated herein by reference, plus interest on the unpaid principal balance at the rate of 1.875% per annum.

The principal of and interest on this Bond shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced hereunder, commencing 30 days following the date of delivery of this Bond and continuing on the corresponding day of each month thereafter for the first 24 months after the date hereof, and thereafter, on the corresponding day of each month in installments of principal and interest in the aggregate amount of \$4,642, except that the final installment shall be paid at the end of 40 years from the date of this Bond in the sum of the unpaid principal and interest due on the date thereof and except that prepayments may be made as provided below. This consideration shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to the Issuer as requested by the Issuer and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Extra payments, as defined in the regulations of the Government, shall, after payment of interest, be applied to the installment last to come due under this Bond and shall not affect the obligation of the Issuer to pay the remaining installments as scheduled herein.

Any amount advanced or expended by the Government for the collection hereof, or to preserve or to protect any security therefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government, shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by the Issuer to the Government without demand. The Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government. The Issuer has granted to the Government a lien on the proceeds of this Bond until such proceeds are expended for authorized purposes.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of new public sewer facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The Project and any further improvements or extensions thereto are herein called the "System". This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on January 22, 2013, and a Supplemental Resolution duly adopted by the Issuer on January 22, 2013 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS, WITH THE ISSUER'S SEWER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 12, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$5,328,240, SEWER REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED DECEMBER 12, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,190,000, SEWER REVENUE BONDS, SERIES 2002 C (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED DECEMBER 12, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$300,000, AND SEWER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA

INFRASTRUCTURE FUND), DATED APRIL 9, 2008, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,500,000 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the holders of the Prior Bonds, and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2013 A Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2013 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates or charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount of principal of and interest on this Bond payable in any year and all other obligations secured by a lien or payable from such revenues on a parity with this Bond, including the Series 2013 Bonds; provided however, that so long as there exists in the Series 2013 A Bonds Reserve Account, an amount at least equal to the maximum amount of principal and interest which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Series 2013 Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owner (as defined in the Bond Legislation) of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth in the Bond Legislation, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Secretary of the Issuer, as registrar (the "Registrar"), which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney or legal representative duly authorized in writing.

Subject to the registration requirements set forth in the Bond Legislation, this Bond under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and the costs of issuance hereof as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the Registered Owner of this Bond.

The Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for such purposes and periods of time.

If at any time it so appears to the Government that the Issuer may be able to obtain a loan from a responsible cooperative or private creditor at reasonable rates and terms for loans for such purposes and period of time, the Issuer will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Bond will be in default should any proceeds of this Bond be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, LOGAN COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated January 24, 2013.

Chairperson

[SEAL]

ATTEST:

Secretary

(Form of)

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$		(19) \$	
(2) \$		(20) \$	
(3) \$		(21) \$	
(4) \$		(22) \$	
(5) \$		(23) \$	
(6) \$		(24) \$	
(7) \$		(25) \$	
(8) \$		(26) \$	
(9) \$		(27) \$	
(10) \$		(28) \$	
(11) \$		(29) \$	
(12) \$		(30) \$	
(13) \$		(31) \$	
(14) \$		(32) \$	
(15) \$		(33) \$	
(16) \$		(34) \$	
(17) \$		(35) \$	
(18) \$		(36) \$	
TOTAL		\$_____	

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____, ;_____.

In the presence of:

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 2013 A Bonds shall be sold to the Government, pursuant to the terms and conditions of the Letter of Conditions. The Letter of Conditions, including all attachments, are hereby approved and incorporated into this Bond Legislation.

Section 3.12. Filing of Amended Schedule. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Government, a schedule, the forms of which will be provided by the Government, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank.

The following special funds or accounts are hereby created or created by the Prior Resolutions with and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

- (1) Revenue Fund (created by the Prior Resolutions);
- (2) Renewal and Replacement Fund (created by the Prior Resolutions); and
- (3) Series 2013 Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created or created by the Prior Resolutions with and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 2002 A Bonds Sinking Fund (created by the Prior Resolutions);
- (2) Series 2002 A Bonds Reserve Account (created by the Prior Resolutions);
- (3) Series 2002 B Bonds Sinking Fund (created by the Prior Resolutions);
- (4) Series 2002 B Bonds Reserve Account (created by the Prior Resolutions);
- (5) Series 2002 A Bonds Reserve Account (created by the Prior Resolutions);
- (6) Series 2008 A Bonds Sinking Fund;
- (7) Series 2008 A Bonds Reserve Account; and
- (8) Series 2013 A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order of priority:

(1) The Issuer shall first, each month, pay from the Revenue Fund the Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit (i) the interest payments for the Prior Bonds as provided in the Prior Resolutions; and (ii) to the National Finance Office for deposit in Series 2013 A Bonds Sinking Fund hereby established at the National Finance Office, the amount of interest due as set forth in the Series 2013 A Bonds.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) the principal payments for the Prior Bonds as provided in the Prior Resolutions; and (ii) remit to the National Finance Office, commencing 24 months following the date of delivery of the Series 2013 A Bonds, for deposit in the Series 2013 A Bonds Sinking Fund, the amount of principal due as set forth in the Series 2013 A Bonds.

The deposits into the Series 2013 A Bonds Sinking Fund provided in this paragraph and in Section 5.03A(2) above, constitute actual payments of principal of and interest on the Series 2013 A Bonds to the Government.

(4) The Issuer shall next, on the first day of each month, commencing 3 months after the completion of construction of the Project, as certified by the Consulting Engineers, if not fully funded upon the issuance of the Series 2013 Bonds, transfer from the Revenue Fund and simultaneously remit to the Commission (i) payments into the Reserve Accounts for the Prior Bonds as provided for in the Prior Resolutions; and (ii) for deposit in the Series 2013 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2013 A Bonds Reserve Requirement, until the amount in the Series 2013 A Bonds Reserve Account equals the Series 2013 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2013 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2013 A Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, commencing 3 months after the completion of construction of the Project, as certified by the Consulting Engineers, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, an amount equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided that, any deficiencies in any Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof, shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Sinking Funds shall be used only for the purposes of paying principal of and interest, if any, on the Series 2013 Bonds, respectively, as the same shall become due. Moneys in the Reserve Accounts shall be used only for the purposes of paying principal of and interest, if any, on the Series 2013 Bonds, respectively, as the same shall come due, when other moneys in the Sinking Funds are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Reserve Accounts (if fully funded) shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2013 Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2013 Bonds, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Reserve Accounts which result in a reduction in the balance therein to below the respective Reserve Requirements shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2013 Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Sinking Funds or the Reserve Accounts when the aggregate amount of funds therein are at least equal to the respective aggregate principal amount of the Series 2013 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Interest, principal or reserve account payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2013 Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2013 A Bonds Reserve Account created hereunder, and all amounts required for such accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Government at any time, the Issuer shall make the necessary arrangements whereby required payments into such accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 2013 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Sinking Funds and the Reserve Accounts shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2013 Bonds, respectively, under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payments and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

C. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreement, and submit a copy of said form, together with a copy of its payment check to the Authority by the 5th day of such calendar month.

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such

other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the respective parties shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Government at any time, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in all funds and accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

H. The Gross Revenues of the System shall only be used for purposes of the System.

ARTICLE VI

APPLICATION OF BOND PROCEEDS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of the Series 2013 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2013 A Bonds, there shall first be deposited in the Series 2013 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 2013 A Bonds for the period commencing on the date of issuance of the Series 2013 A Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 2013 A Bonds, there shall be deposited in the Series 2013 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2013 A Bonds Reserve Account.

C. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2013 A Bonds, such moneys shall be deposited with the Depository Bank in the Series 2013 Bonds Construction Trust Fund and applied solely to payment of costs of the Project in the manner set forth in Section 6.02 and until so expended, are hereby pledged as additional security for the Series 2013 A Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2013 A Bonds shall be expended as directed by the Government.

Section 6.02. Disbursements From the Bond Construction Trust Fund. Except as provided in Section 6.01 hereof, disbursements of proceeds of the Series 2013 A Bonds from the Series 2013 A Bonds Construction Trust Fund shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Government.

Until completion of acquisition and construction of the Project, the Issuer will use proceeds of the Series 2013 A Bonds from the Series 2013 A Bonds Construction Trust Fund to pay to the Government the monthly interest payments on the Series 2013 A Bonds, if there are not sufficient revenues to make such monthly payments.

Pending such application, moneys in the Series 2013 A Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2013 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2013 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2013 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2013 Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 2013 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2013 Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2013 A Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System on a parity with the lien of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2013 Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in and approved by the PSC Order and such rates are hereby adopted.

So long as the Series 2013 Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation. In the event the schedule of rates, fees and charges initially

established for the System in connection with the Series 2013 Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall only sell the System as provided for in the Prior Resolutions. So long as the Series 2013 Bonds are outstanding and except as otherwise required by law or with the written consent of the Government, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall be remitted to the respective Sinking Funds and applied to the payment of principal of and interest, if any, on the Series 2013 Bonds. Any balance remaining after the payment of the Series 2013 Bonds and interest, if any, thereon shall be remitted to the Issuer unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, determine upon consultation with the Managing Engineer that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amount required to be paid into said fund by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together

with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2013 Bonds. All obligations issued by the Issuer after the issuance of the Series 2013 Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2013 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2013 Bonds, and the interest thereon, if any, upon any or all of the income and revenues of the System pledged for payment of the Series 2013 Bonds and the interest thereon, if any, in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Government prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2013 Bonds pursuant to this Bond Legislation, except with the prior written consent of the Government under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2013 Bonds.

No such Parity Bonds shall be issued except for the purposes of financing the costs of the design, acquisition or construction of extensions and improvements to the System or refunding any outstanding Bonds, or both such purposes.

So long as the Series 2013 A Bonds are Outstanding, no Parity Bonds shall be issued at any time, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The foregoing limitation may be waived or modified by the written consent of the Holders of the Series 2013 A Bonds, representing 75% of the then-outstanding principal indebtedness. In the event the foregoing limitation is waived or when the Series 2013 A Bonds are no longer Outstanding, the following parity requirement shall be met:

No Parity Bonds shall be issued at any time, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The “estimated average increased annual Net Revenues to be received in each of the 3 succeeding years,” as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the date of issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on revenues of the System is subject to the prior and superior liens of the Series 2013 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2013 Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation with respect to the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Government, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Government such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Government, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Government, or any other original purchaser of the Series 2013 Bonds, and shall mail in each year to any Holder or Holders of the Series 2013 Bonds, requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation, and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and to the extent required in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto) and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2013 Bonds, and shall submit said report to the Government, or any other original purchaser of the Series 2013 Bonds. Such audit report submitted to the Government shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall permit the Government, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Government, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights the Government with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2013 Bonds, equitable rates or charges for the use of and service rendered by the System shall be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that

the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2013 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2013 Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit respectively in the Reserve Accounts and the reserve accounts for obligations on a parity with the Series 2013 Bonds are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2013 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2013 Bonds. In any event, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 30 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Government within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Managing Engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Managing Engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Government and to any Holder of any Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Government and to any Holder of any Bonds, or anyone acting for and in behalf of such Holder of any Bonds.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Government, the Project is adequate for the

purposes for which it was designed, the funding plan as submitted to the Government is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Government covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Government and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the PSC and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the PSC, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider, subject to any required approval of such agreement by the PSC and all rules, regulations and orders of the PSC.

Section 7.14. No Free Services. Except as required by law, the Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than \$500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) **WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS**, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with Chapter 38, Article 2, Section 39 of the Code of West Virginia, 1931, as amended.

(4) **FLOOD INSURANCE**, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

(5) **BUSINESS INTERRUPTION INSURANCE**, to the extent available at reasonable cost to the Issuer.

(6) **FIDELITY BONDS** will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Government. The Issuer shall verify such insurance prior to commencement of construction.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by

the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the PSC, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 7.17. Completion and Operation of Project; Permits and Orders. The Issuer shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and State requirements and standards.

The Issuer has obtained all permits required by State and federal laws for the acquisition and construction of the Project, all orders and approvals from the PSC and the Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Bonds required by State law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. [Reserved]

Section 7.19. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2013 Bonds, a statutory mortgage lien on a parity with the statutory mortgage lien of the Prior Bonds upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2013 Bonds.

Section 7.20. Compliance with Letter of Conditions, and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the Letter of Conditions and the Act.

The Issuer shall also comply with all applicable laws, rules and regulations issued by the Government or other State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.21. Securities Laws Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.22. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2013 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the Government for written approval. The Issuer shall obtain the written approval of the Government before expending any proceeds of the Series 2013 Bonds held in “contingency” as set forth in the schedules attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the Government before expending any proceeds of the Series 2013 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding provided by the Government in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

ARTICLE VIII

INVESTMENTS

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank, or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2013 Bonds are Outstanding.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an “Event of Default” with respect to the Series 2013 Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any series of the Series 2013 Bonds; or
- (2) If default occurs in the Issuer’s observance of any of the covenants, agreements or conditions on its part relating to the Series 2013 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2013 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder of a Bond;
- (3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or
- (4) If default occurs or with respect to the Prior Bonds or the Prior Resolutions.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Registered Owners of the Series 2013 A Bonds and the Prior Bonds shall be on a parity with each other.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates

and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of the System and shall hold, operate and maintain, manage and control the System, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to the System as the Issuer itself might exercise.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the

provisions of this Bond Legislation, and the title to and ownership of the System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Series 2013 A Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Series 2013 A Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2013 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. Except through such direct payment to the Holder of the Series 2013 A Bonds, the Issuer may not defease the Series 2013 A Bonds or otherwise provide for payment thereof by escrow or like manner.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2013 Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2013 Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2013 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2013 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds, required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2013 Bonds from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2013 Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the Supplemental Resolution, or the Series 2013 Bonds.

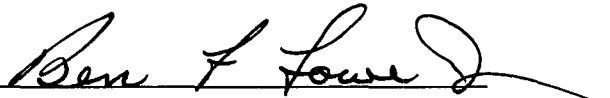
Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.


Section 11.05. Conflicting Provisions Repealed. All orders or resolutions, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairperson, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 22nd day of January, 2013.


Chairperson


Member

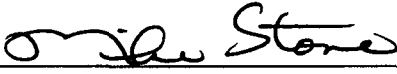
Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of LOGAN COUNTY PUBLIC SERVICE DISTRICT on the 22nd day of January, 2013.

Dated: January 24, 2013.

[SEAL]


Secretary

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2013 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LOGAN COUNTY PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2013 A (UNITED STATES DEPARTMENT OF AGRICULTURE); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE SERIES 2013 A BONDS TO THE UNITED STATES DEPARTMENT OF AGRICULTURE; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the “Governing Body”) of Logan County Public Service District (the “Issuer”) has duly and officially adopted a Bond Resolution on January 22, 2013 (the “Resolution”), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF NEW PUBLIC SEWER FACILITIES OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$1,512,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2013 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein;

WHEREAS, the Resolution provides for the issuance of the Sewer Revenue Bonds, Series 2013 A (United States Department of Agriculture), of the Issuer, in the aggregate principal amount of not to exceed \$1,512,000 (the "Bonds" or the "Series 2013 A Bonds"), all in accordance with Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"); and in the Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be therein provided for;

WHEREAS, the Series 2013 A Bonds are proposed to be purchased by the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government") pursuant to the Letter of Conditions; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LOGAN COUNTY PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued: Sewer Revenue Bonds, Series 2013 A (United States Department of Agriculture), of the Issuer, originally represented by a single bond, numbered AR-1, in the original principal amount of \$1,512,000. The Series 2013 A Bonds shall be dated the date of delivery, shall mature forty years from the date thereof, and the principal amount advanced under the Series 2013 A Bonds shall bear interest at the rate of 1.875% per annum. Monthly installments of interest only on the amounts advanced under the Series 2013 A Bonds are payable 30 days following the date of delivery of the Series 2013 A Bonds and on the corresponding day of each month thereafter for the first 24 months after the date of delivery of the Series 2013 A Bonds, and thereafter, monthly installments of principal of and interest on the Series 2013 A Bonds, in the aggregate amount of \$4,642, are payable on the corresponding day of each month, except that the final installment on the Series 2013 A Bonds shall be paid at the end of 40 years from the date of the Series 2013 A Bonds in the sum of the unpaid principal and interest due on the date thereof. The Series 2013 A Bonds are subject to prepayment as set forth in the Resolution and the Series 2013 A Bonds. All principal and interest payments on the Series 2013 A Bonds will be paid by the Issuer directly to the order of the United

States of America at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Resolution.

Section 3. The Issuer hereby ratifies, approves and accepts the Letter of Conditions, and all amendments thereto, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer hereby appoints and designates Logan Bank & Trust Company, Logan, West Virginia, to serve as the Depository Bank for the Revenue Fund.

Section 5. The Issuer hereby appoints and designates Logan Bank & Trust Company, Logan, West Virginia, to serve as the Depository Bank for the Series 2013 A Bonds Construction Trust Fund and the Renewal and Replacement Fund.

Section 6. Series 2013 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2013 A Bonds Reserve Account.

Section 7. The remaining proceeds of the Bonds, as advanced from time to time, shall be deposited in the Series 2013 Bonds Construction Trust Fund, as received by the Issuer for payment of costs of the Project, including costs of issuance of the Bonds.

Section 8. The Chairperson and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the end that the Series 2013 A Bonds may be delivered to the Government pursuant to the Letter of Conditions on or about January 24, 2013.

Section 9. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

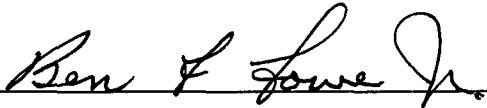
Section 10. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Reserve Accounts shall be invested by the Commission in the West Virginia Consolidated Fund.

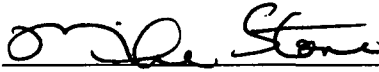
Section 11. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 12. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 13. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 22nd day of January, 2013.


Chairperson


Member

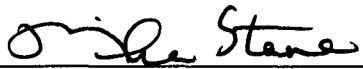
Member

CERTIFICATION

Certified as a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Logan County Public Service District on the 22nd day of January, 2013.

Dated this 24th day of January, 2013.

[SEAL]


Secretary



**LOGAN COUNTY
PUBLIC SERVICE DISTRICT**

P.O. Box 506
Logan, WV 25601
(304) 946-2641 (TDD)
Fax (304) 946-2645
E-mail: lcpsd@lcpsd.com

BOARD MEMBERS:
Ben F. Lowe, Jr., Chair
Mike Stone
Leonard Hovis
GENERAL MANAGER:
William Baisden, CPA

MINUTES

January 22, 2013

Respectfully submitted,


Mr. Ben F. Lowe, Jr., Chair


Mr. Mike Stone, Secretary


Mr. Leonard Hovis, Treasurer



The Logan County Public Service District held its Regular Monthly Board Meeting on January 22, 2013 at 10:00 a.m. at the Logan County Public Service District Business Office, 41 Armory Road, Monaville, West Virginia.

Mr. Ben F. Lowe, Jr., Chair, called the meeting to order. See attached list of those in attendance.

Mr. Lowe noted the absence of Leonard Hovis, Treasurer for the Logan County Public Service District.

APPROVAL OF MINUTES: The Board reviewed the Minutes of the January 8, 2013 Special Board Meeting. A motion was made by Mr. Stone to approve the minutes as presented, seconded by Mr. Lowe. Motion passed 2-0.

CUSTOMER/PUBLIC PRESENTATIONS: None.

ANNOUNCEMENTS: The next Special Board Meeting has been rescheduled for Tuesday, February 5, 2013, at 6:30 p.m. at the Logan County PSD Office, 41 Armory Road, Monaville, West Virginia.

The next Regular Board Meeting has been rescheduled for Tuesday, February 19, 2013, at 6:30 p.m. at the Logan County PSD Office, 41 Armory Road, Monaville, West Virginia.

PROJECT IMPLEMENTATION:

Phase III-B1 Sewer Project – Zach Browning from Region II PDC presented an ARC Application to the Board for approval and signature. A motion was made by Mr. Stone to approve the application, seconded by Mr. Lowe. Motion passed 2-0.

Mr. Roberts stated that Barry Bailey, Chief Operator of the Wastewater Plant is reviewing the plans.



Anchor Road Water Project – Samme Gee of Jackson Kelly, PLLC, presented the Series 2013 A Bond documents to the Board. She reviewed the documents with the Board. Ms. Gee read the Bond Resolution by title:

“RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$4,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS (ANCHOR ROAD PROJECT), SERIES 2013 A (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO”.

Mr. Lowe inquired as to if there is any public comment on the bond resolution. No comments were made. A motion was made by Mr. Stone to adopt the Bond Resolution as presented, seconded by Mr. Lowe. Motion passed 2-0.

Ms. Gee presented the Notice of Awards for Contract No. 1 to Mike Enyart and Sons in the amount of \$2,990,260.00 and Contract No. 2 to Welding, Inc. in the amount of \$248,500.00 to the Board for approval and signature. A motion was made by Mr. Stone to authorize Mr. Lowe to execute the Notice of Award, seconded by Mr. Lowe. Motion passed 2-0.

Mr. Baisden presented an invoice from Stafford Consultants in the amount of \$12,480.00 to the Board for approval. A motion was made by Mr. Stone to approve the invoice, seconded by Mr. Lowe. Motion passed 2-0.



Phase III-A Sewer Project – Samme Gee of Jackson Kelly, PLLC, presented the Series 2013 A Bond documents to the Board. She reviewed the documents with the Board. Ms. Gee read the Bond Resolution by title:

“RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF NEW PUBLIC SEWER FACILITIES OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$1,512,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2013 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO”.

Mr. Lowe inquired as to if there is any public comment on the bond resolution. No comments were made. A motion was made by Mr. Stone to adopt the Bond Resolution as presented, seconded by Mr. Lowe. Motion passed 2-0.

Ms. Gee reviewed and read the Supplement Resolution by title:

“SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LOGAN COUNTY PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2013 A (UNITED STATES DEPARTMENT OF AGRICULTURE); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE SERIES 2013 A BONDS TO THE UNITED STATES DEPARTMENT OF AGRICULTURE; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK, AND MAKING OTHER PROVISIONS AS TO THE BONDS.



A motion was made by Mr. Lowe to adopt the Supplement Resolution, seconded by Mr. Stone. Motion passed 2-0.

Tracey Rowan with USDA-Rural Development presented the Loan Resolution, Grant Agreement and Draw Resolution to the Board for their approval and signature. A motion was made by Mr. Stone to approve the draw resolution, seconded by Mr. Lowe. Motion passed 2-0.

Mr. Roberts presented the Notice of Awards for Contract No. 1 to Mike Enyart & Sons, Inc. in the amount of \$2,251,423.00, Contract No. 2 to Fields Excavating, Inc. in the amount of \$3,398,877.55 and Contract No. 3 to Rover Construction in the amount of \$2,132,543.00 to the Board for approval and signature. A motion was made by Mr. Lowe to approve the Notice of Awards, Notice to Proceed and the agreement, seconded by Mr. Stone. Motion passed 2-0.

Mr. Baisden presented an Application for a highway bond to the Board for signature. A motion was made by Mr. Stone to approve the application and authorize Mr. Lowe to execute the highway bond when received, seconded by Mr. Lowe. Motion passed 2-0.

Frances Creek Water Project – Mr. Roberts stated that there were no new updates on this project.

Marsh Fork Water Project – Mr. Roberts reported that the tank contractor has the tank site down to grade. Mr. Roberts stated that the line contractor should begin on February 11, 2013.

Mr. Baisden presented an Application for a highway bond to the Board for signature. A motion was made by Mr. Stone to approve the application and authorize Mr. Lowe to execute the highway bond when received, seconded by Mr. Lowe. Motion passed 2-0.

Big Harts Creek Water Project – Mr. Roberts stated that they are working on the permit applications.

Other Projects –None.

SYSTEM OPERATIONS: Mr. Baisden presented a Memorandum approving the payment of monthly invoices in the amount \$123,194.25 to the Board for review, approval and signature. A motion was made by Mr. Lowe to approve the invoices as presented, seconded by Mr. Stone. Motion passed 2-0.

Mr. Baisden presented the monthly reports to the Board for review and discussion.

A discussion was held on the schedule of past due accounts.



Eastern Wyoming Public Service District – Mr. Baisden reported that the next board meeting has been rescheduled for Tuesday, February 12, 2013 at 6:30 p.m. at the Stephenson Water Treatment Plant.

Mr. Baisden stated that the District is working on four projects.

Other – Mr. Baisden reported that David Howell should begin working on the audits around the first of the month.

Mr. Baisden presented the signature cards for the Phase IIIA Sewer Project account and the Manns Knob account to the Board for signature. A motion was made by Mr. Stone to open the account, seconded by Mr. Lowe. Motion passed 2-0.

ADJOURNMENT: Being no other business, a motion made by Mr. Stone and seconded by Mr. Lowe, the meeting was adjourned.

Attendance List

Representing

LCPSD

LCPSD

EL Robinson Eng.

Best Love In

LCPSD

Tucker Kelly LLC

LCPSD

USA - ID

Region II PDC

AFFIDAVIT OF PUBLICATION

I, Jennifer James, General Manager of the The Williamson Daily News (Mingo County), Logan Banner (Logan County), Coal Valley News (Boone County), Gilbert Times (Mingo County) and Independent Herald (Wyoming County) West Virginia, do hereby certify that the annexed notice was published in said paper for 1 successive time(s)

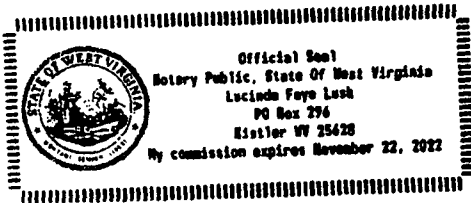
The Logan Banner 1/11/13

Given under my hand this 11 day of January, 2013

Jennifer James

State of West Virginia
to-wit:

Subscribed and sworn before me this 11 day of January, 2013



Lucinda Faye Lusk

Notary Public of Logan County
West Virginia

Cost of Publication \$ 34.44

Copy of Publication
See attached

**LOGAN COUNTY PUBLIC
SERVICE DISTRICT**

**NOTICE OF SPECIAL
MEETING**

The Public Service Board of Logan County Public Service District (the District) will hold a special meeting on Tuesday, January 22, 2013, at 10:00 a.m., prevailing time, at the District's office at 41 Armory Road, Monaville, West Virginia, for the following purposes:

1. To consider and adopt a proposed Bond Resolution authorizing its Sewer Revenue Bonds, Series 2013A (United States Department of Agriculture) in the aggregate principal amount of \$1,512,000 (the "Bonds") to permanently finance the costs of certain improvements and extensions to the existing public sewer system of the District (the "Project").
2. To consider and adopt a proposed Supplemental Resolution approving the terms and other provisions of the Bonds.
3. To consider and approve all other resolution documents and matters in connection with the Project.

This meeting is open to the press and the public and any person interested may attend each meeting.



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

No. AR-1

\$1,512,000

FOR VALUE RECEIVED, LOGAN COUNTY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Boone, Logan, Lincoln, Mingo and Wyoming Counties of said State (the "Issuer"), promises to pay to the order of the UNITED STATES OF AMERICA (the "Government"), at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, and in the manner provided below, the principal sum of ONE MILLION, FIVE HUNDRED TWELVE DOLLARS (\$1,512,000), or such lesser amount as is set forth on the Record of Advances attached hereto and incorporated herein by reference, plus interest on the unpaid principal balance at the rate of 1.875% per annum.

The principal of and interest on this Bond shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced hereunder, commencing 30 days following the date of delivery of this Bond and continuing on the corresponding day of each month thereafter for the first 24 months after the date hereof, and thereafter, on the corresponding day of each month in installments of principal and interest in the aggregate amount of \$4,642, except that the final installment shall be paid at the end of 40 years from the date of this Bond in the sum

NUMBER
AR-1

SPECIMEN

of the unpaid principal and interest due on the date thereof and except that prepayments may be made as provided below. This consideration shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to the Issuer as requested by the Issuer and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Extra payments, as defined in the regulations of the Government, shall, after payment of interest, be applied to the installment last to come due under this Bond and shall not affect the obligation of the Issuer to pay the remaining installments as scheduled herein.

Any amount advanced or expended by the Government for the collection hereof, or to preserve or to protect any security therefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government, shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by the Issuer to the Government without demand. The Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government. The Issuer has granted to the Government a lien on the proceeds of this Bond until such proceeds are expended for authorized purposes.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of new public sewer facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The Project and any further improvements or extensions thereto are herein called the "System". This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on January 22, 2013, and a Supplemental Resolution duly adopted by the Issuer on January 22, 2013 (collectively, the "Bond Legislation"), and is subject to all the terms

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SPECIMEN

and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS, WITH THE ISSUER'S SEWER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 12, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$5,328,240, SEWER REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED DECEMBER 12, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,190,000, SEWER REVENUE BONDS, SERIES 2002 C (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED DECEMBER 12, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$300,000, AND SEWER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED APRIL 9, 2008, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,500,000 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the holders of the Prior Bonds, and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2013 A Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2013 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates or charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount of principal of and interest on this Bond payable in any year and all other obligations secured by a lien or payable from such

NUMBER
AR-1

SPECIMEN

revenues on a parity with this Bond, including the Series 2013 Bonds; provided however, that so long as there exists in the Series 2013 A Bonds Reserve Account, an amount at least equal to the maximum amount of principal and interest which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Series 2013 Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owner (as defined in the Bond Legislation) of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth in the Bond Legislation, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Secretary of the Issuer, as registrar (the "Registrar"), which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney or legal representative duly authorized in writing.

Subject to the registration requirements set forth in the Bond Legislation, this Bond under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and the costs of issuance hereof as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the Registered Owner of this Bond.

The Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for such purposes and periods of time.

If at any time it so appears to the Government that the Issuer may be able to obtain a loan from a responsible cooperative or private creditor at reasonable rates and

AR-1

SPECIMEN

terms for loans for such purposes and period of time, the Issuer will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Bond will be in default should any proceeds of this Bond be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

AR-1

IN WITNESS WHEREOF, LOGAN COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated January 24, 2013.


Chairperson

[SEAL]

ATTEST:


Secretary

AR-1

(Form of)

SPECIMEN

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$176,994.99	01/24/13	(19) \$	
(2) \$		(20) \$	
(3) \$		(21) \$	
(4) \$		(22) \$	
(5) \$		(23) \$	
(6) \$		(24) \$	
(7) \$		(25) \$	
(8) \$		(26) \$	
(9) \$		(27) \$	
(10) \$		(28) \$	
(11) \$		(29) \$	
(12) \$		(30) \$	
(13) \$		(31) \$	
(14) \$		(32) \$	
(15) \$		(33) \$	
(16) \$		(34) \$	
(17) \$		(35) \$	
(18) \$		(36) \$	
TOTAL		\$	

(Form of)
ASSIGNMENT SPECIMEN

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____, ; ____.

In the presence of:

BOND REGISTER

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
AR-1	\$1,512,000.00	January 24, 2013

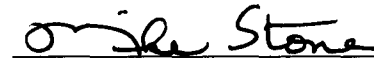
NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

United States of America
1520 Market Street
St. Louis, Missouri 63103

Signature of Registrar:

Logan County Public Service District



Secretary



WEST VIRGINIA

Water Development Authority

Celebrating 36 Years of Service 1974 - 2012

2.11

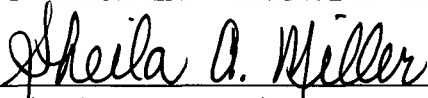
**LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)**

CONSENT TO ISSUANCE OF PARITY BONDS

In reliance upon a certificate of Griffith & Associates, PLLC, an independent certified public accountant and the opinion of Jackson Kelly PLLC, bond counsel, stating that the coverage and parity requirements have been met (copy attached), the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Sewer Revenue Bonds, Series 2013 A (United States Department of Agriculture) (the "Bonds"), in the original aggregate principal amount not to exceed \$1,512,000, by Logan County Public Service District (the "Issuer"), under the terms of the resolution authorizing the Bonds, on a parity as to liens, pledge and source of and security for payment with the Issuer's (1) Sewer Revenue Bonds, Series 2002 A (West Virginia SRF Program) dated December 12, 2002, issued in the original aggregate principal amount of \$5,328,940 (the "Series 2002 A Bonds"); (2) Sewer Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund) dated December 12, 2002, issued in the original aggregate principal amount of \$2,190,000 (the "Series 2002 B Bonds"); and (3) Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund) dated April 9, 2008, issued in the original aggregate principal amount of \$4,500,000 (collectively, the "Prior Bonds").

WITNESS my signature on this 24th day of January, 2013.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY



Authorized Representative

1009 Bullitt Street, Charleston, WV 25301
Phone (304) 414-6500 / fax (304) 414-0865
www.wvwda.org



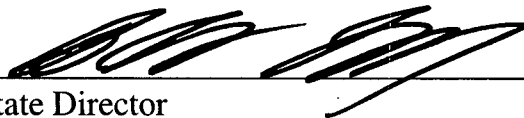
LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CONSENT TO ISSUANCE OF PARITY BONDS

The undersigned duly authorized representative of the United States of America, acting through the United States Department of Agriculture, Rural Development, Rural Utilities Service, the registered owner of the Prior Bonds, hereinafter defined and described, hereby (i) consents to the issuance of the Sewer Revenue Bonds, Series 2013 A (United States Department of Agriculture) (the "Series 2013 A Bonds"), in the original principal amount not to exceed \$1,512,000, by Logan County Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2013 A Bonds (collectively, the "Resolution"), on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Sewer Revenue Bonds, Series 2002 C (United States Department of Agriculture) (the "Prior Bonds"); (ii) waives any requirements imposed by the Prior Bonds or the resolutions authorizing the Prior Bonds (collectively, the "Prior Resolutions"), regarding the issuance of parity bonds which are not met by the Series 2013 A Bonds or the Resolution; and (iii) consents to any amendments made to the Prior Resolutions by the Resolution.

WITNESS my signature on this 24th day of January, 2013.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
AGRICULTURE, RURAL DEVELOPMENT



State Director

1550 Earl Core Road, Suite 101, Morgantown, WV 26505
304.284.4860 • 1.800.295.8228 • 304.284-4893 • TTY/TDD 304.284.4836 • Web: <http://www.rurdev.usda.gov>

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."
To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. PUBLIC SERVICE COMMISSION ORDER
7. RATES
8. INCUMBENCY AND OFFICIAL NAME
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS
11. INSURANCE
12. SPECIMEN BONDS
13. BOND PROCEEDS
14. CONFLICTS OF INTEREST
15. VERIFICATION OF SCHEDULE
16. PROCUREMENT OF ENGINEERING SERVICES
17. CLEAN WATER ACT
18. USERS
19. WETLANDS
20. GRANTS
21. COUNTERPARTS

We, the undersigned CHAIRPERSON and the undersigned SECRETARY of the Public Service Board of Logan County Public Service District (the “Issuer”) and the undersigned ATTORNEY for the Issuer, hereby certifies in connection with the Logan County Public Service District Sewer Revenue Bonds, Series 2013 A (UNITED STATES DEPARTMENT OF AGRICULTURE), dated the date hereof (the “Series 2013 A Bonds” or the “Series 2013 Bonds” or the “Bonds”), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond Resolution duly adopted by the Issuer on January 22, 2013, the Supplemental Resolution duly adopted by the Issuer on January 22, 2013 (together the “Resolution”),

the letters of conditions for the Series 2013 A Bonds from the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), to the Issuer, dated April 10, 2010 (the "Letters of Conditions").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of members or officers of the Issuer or the Board thereof to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project the operation of the System, the collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals, permits, exemptions, consents, authorizations, registrations, licenses, orders and certificates required by law for the creation and existence of the Issuer, the acquisition and construction of the Project, the operation of the System, the imposition of rates and charges and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited by the Issuer in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia, 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval of the Letter of Conditions. The Issuer has met all conditions set forth in the Letter of Conditions and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

5. SIGNATURES AND DELIVERY: The undersigned Chairperson and Secretary are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Chairperson did officially sign all of the Bonds, consisting upon original issuance of a single Bond for each series, dated the date hereof, by his or her manual signature; the undersigned Secretary did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by his or her manual signature; the Registrar

did officially authenticate and deliver the Series 2013 A Bonds to a representative of the Government as the original purchaser of such Bonds.

6. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the final order of the Public Service Commission of West Virginia (the "PSC") entered on June 13, 2012, Case No. 11-1808-PSD-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the rates for the System and the financing for the Project. The time for appeal of the PSC order has expired prior to the date hereof without any appeal having been filed. Such order remains in full force and effect.

The Issuer has duly published the required notice with respect to, among other things, the amount of the Bonds to be issued, the interest rate and terms of the Bonds, the Project to be acquired or constructed, the cost of the Project, the anticipated user rates and charges and the date that a formal application for a certificate of public convenience and necessity is to be filed with the PSC in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia, 1931, as amended.

7. RATES: The rates for the System, as approved by the PSC, will become effective on or after the date of substantial completion of the Project.

8. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "Logan County Public Service District", and it is a public service district organized and existing under the laws of, and a public corporation and political subdivision of, the State of West Virginia in Boone, Logan, Lincoln, Mingo and Wyoming Counties of said State. The governing body of the Issuer is its Board, consisting of three members, whose names and dates of commencement and termination of their current terms are as follows:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Ben F. Lowe, Jr.	January 7, 2008	January 7, 2014
Mike Stone	October 10, 2008	October 10, 2013
Leonard Hovis	January 6, 2011	January 7, 2014

The duly elected or appointed officers of the Board for 2013 are as follows:

Ben F. Lowe, Jr.	-	Chairperson
Mike Stone	-	Secretary
Leonard Hovis	-	Treasurer

The duly appointed and acting attorney for the Issuer is Brian R. Abraham, Esquire, of Logan, West Virginia.

9. LAND AND RIGHTS-OF-WAY: All land, rights-of-way and easements necessary for the acquisition and construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

10. MEETINGS: All actions, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Project or the System were authorized or adopted at meetings of the Board duly and regularly or specifically called and held pursuant to all applicable statutes and the rules of procedure of the Board, and a quorum of duly appointed, qualified and acting members of the Board was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

11. INSURANCE: The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Resolution and the Letter of Conditions. All insurance for the System required by the Resolution and the Letter of Conditions is in full force and effect.

12. SPECIMEN BOND: Attached hereto as Exhibit A are specimens of the Bonds which, except as to execution and authentication, are identical in all respects with the Bonds this day delivered to the Government and being substantially in the form prescribed in the Resolution.

13. BOND PROCEEDS: On the date hereof, the Issuer received \$1,512,000 from the Government.

14. CONFLICTS OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or the sale of any land, materials, supplies or services to the Issuer, or to any contractor supplying the Issuer, relating to the Bonds, the Resolution and/or the Project, including without limitation, with respect to the

Depository Bank. For purposes of this paragraph, a “substantial financial interest” shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

15. VERIFICATION OF SCHEDULE: The final amended Schedules A and B attached to the Certificate of Consulting Engineer, with the signature of the Chairperson and the Consulting Engineer, accurately represents the estimated costs of the Project, the sources of funds available to pay the costs of the Project and the costs of financing the Bonds.

16. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied with all requirements of Chapter 5G, Article 1, *et seq.*, of the Code of West Virginia, 1931, as amended, in the procurement of the engineering services of the Consulting Engineer.

17. CLEAN WATER ACT: The Project as described in the Resolution complies with Sections 208 and 303(e) of the Clear Water Act.

18. USERS: The Issuer will serve at least 1,565 bona fide users upon the completion of the Project, in full compliance with the Letter of Conditions.

19. WETLANDS COVENANT: The Issuer hereby certifies that it will not use any proceeds of the Bonds for a purpose that will contribute to excessive erosion of highly erodible lands or to the conversion of wetlands to produce an agricultural commodity.

20. GRANTS: As of the date hereof, the grant from the Government in the amount of approximately \$8,728,600.00 and the grant from the United States Department of Housing and Urban Development (Small Cities Block Grant through the State of West Virginia) in the amount of \$1,500,000.00, are committed for the Project and remain in full force and effect.

21. COUNTERPARTS: This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

[The remainder of this page is intentionally left blank.]

WITNESS our signatures and the official corporate seal of Logan
County Public Service District on this 24th day of January, 2013.

[SEAL]

Signature

Official Title

Ben F Lowe II

Chairperson

Orla Stone

Secretary

Red

Attorney

EXHIBIT A

See Specimen Bond (Tab No. 15)

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF SECRETARY
AS TO TRUTH AND ACCURACY OF DOCUMENTS DELIVERED

On this 24th day of January, 2013, the undersigned duly appointed Secretary of Logan County Public Service District (the “Issuer”) hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of the Logan County Public Service District Sewer Revenue Bonds, Series 2013 A (United States Department of Agriculture) (the “Bonds”), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, that said documents have been duly adopted or approved by the Public Service Board (the “Board”) of the Issuer and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:


1. Orders of The County Commission of Logan County Creating and Enlarging the Issuer.
2. Orders of The County Commission of Logan County Appointing the Members of the Board.
3. Oaths of Office of the Board Members.
4. Rules of Procedure.
5. Public Service Commission Order.
6. USDA Letter of Conditions.
7. USDA Closing Letter.
8. USDA Loan Resolution.

9. Minutes of Board Meeting regarding Adoption of USDA Loan Resolution.
10. Bond Resolution.
11. Supplemental Resolution.
12. Minutes of Current Year Organizational Meeting and Adoption of Bond Resolution and Supplemental Resolution.
13. Affidavits of Publication regarding Notice of Borrowing and Notice of Meeting to Adopt Bond Resolution and Supplemental Resolution.
14. WDA Consent to Issuance of Parity Bonds.
15. USDA Consent to Issuance of Parity Bonds.
16. NPDES Permit.
17. USDA Grant Agreement.
18. Small Cities Block Grant Agreement.
19. Insurance Certificates.

WITNESS my signature and the official seal of the Issuer as of the date first written above.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

[SEAL]



Secretary

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF CONSULTING ENGINEER

On this 24th day of January, 2013, I, Charles R. Roberts, Jr., Registered Professional Engineer, West Virginia License No. 10424, of E.L. Robinson Engineering Company, Charleston, West Virginia, hereby certify as follows:

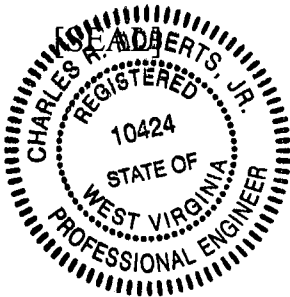
1. My firm is engineer for the acquisition and construction of new public sewer facilities (the "Project") of Logan County Public Service District (the "Issuer"), to be constructed primarily in Logan County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words used herein and not defined herein shall have the same meaning set forth in the Bond Resolution adopted by the Issuer on January 22, 2013 (as supplemented, the "Resolution"), and the Letter of Conditions dated April 10, 2010 (the "Letter of Conditions"), from the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government").

2. The Bonds are being issued for the purpose of (i) paying a portion of the costs of acquisition and construction of the Project; and (ii) paying certain costs of issuance of the Bonds and related costs.

3. To the best of my knowledge, information and belief (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the West Virginia Department of Environmental Protection and any change orders by the Issuer, the Government and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 40 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Letter of Conditions, and in reliance upon the opinion of Issuer's counsel, Brian R. Abraham, Esquire, of even date herewith, all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the Government and the bid forms provided to the bidders contain all critical operational components of the

Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) in reliance upon the certificate of Michael D. Griffith, CPA, of even date herewith, as of the effective date thereof, the rates and charges for the System as approved by the Public Service Commission of West Virginia and adopted by the Issuer will be sufficient to comply the provisions of the Resolution; and (x) the net proceeds of the Bonds, together with all other moneys on deposit to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the Government.

WITNESS my signature and seal as of the date first written above.



E.L. ROBINSON ENGINEERING COMPANY

A handwritten signature in cursive script, reading "Charles R. Roberts, Jr.", written over a horizontal line.

Charles R. Roberts, Jr., P.E.

West Virginia License No. 10424

USDA - RURAL DEVELOPMENT
SCHEDULE B
LOGAN COUNTY PUBLIC SERVICE DISTRICT
PHASE IIIA SANITARY SEWER EXTENSION PROJECT
FINAL TOTAL COST OF PROJECT, SOURCES OF FUNDS, AND COST OF FINANCING

A. Cost of Project	Total	SCBG Grant	RUS Grant	RUS Loan
1. Construction (Based on actual bids)				
a. Contract 1	\$2,251,423.00	\$0.00	\$1,781,423.00	\$470,000.00
b. Contract 2	\$3,398,877.55	\$742,750.00	\$2,178,377.55	\$477,750.00
c. Contract 3	\$2,132,543.00	\$0.00	\$1,662,543.00	\$470,000.00
d. Storage Building	\$200,000.00	\$0.00	\$200,000.00	\$0.00
2. Engineering Fees				
a. Design Engineering	\$509,000.00	\$436,750.00	\$0.00	\$72,250.00
b. Inspection	\$390,000.00	\$0.00	\$390,000.00	\$0.00
c. Construction Engineering	\$124,000.00	\$0.00	\$124,000.00	\$0.00
d. Special	\$415,000.00	\$207,500.00	\$207,500.00	\$0.00
3. Legal	\$65,000.00	\$0.00	\$65,000.00	\$0.00
4. Administration	\$110,000.00	\$60,000.00	\$50,000.00	\$0.00
5. Sites and Other Lands	\$165,000.00	\$0.00	\$165,000.00	\$0.00
6. Accountant	\$25,000.00	\$0.00	\$25,000.00	\$0.00
7. Permit Fees	\$120,000.00	\$53,000.00	\$67,000.00	\$0.00
8. Equipment	\$400,000.00	\$0.00	\$400,000.00	\$0.00
9. Capitalized Interest	\$75,600.00	\$0.00	\$75,600.00	\$0.00
10. Bond Council	\$22,000.00	\$0.00	\$0.00	\$22,000.00
11. Construction Contingency	\$1,087,156.45	\$0.00	\$1,087,156.45	\$0.00
12. Project Contingency	\$250,000.00	\$0.00	\$250,000.00	\$0.00
13. Total Lines 1 Through 7	\$11,740,600.00	\$1,500,000.00	\$8,728,600.00	\$1,512,000.00
B. Sources of Funds				
14. SCBG Grant	\$1,500,000.00	\$1,500,000.00		
15. RUS Grant	\$8,728,600.00		\$8,728,600.00	
16. RUS Grant Loan	\$1,512,000.00			\$1,512,000.00


Ben F. Lowe Jr.
Logan County PSD


Charles A. Robinson
E. L. Robinson Engineering Co.

DATE: January 8, 2013

DATE: January 8, 2013



January 24, 2013

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

Logan County Public Service District
Monaville, West Virginia 25636

West Virginia Water Department Authority
Charleston, West Virginia 25301

United States Department of Agriculture
Rural Utilities Service
Cross Lanes, West Virginia 25313

Jackson Kelly PLLC
Charleston, West Virginia 25301

Re: Logan County Public Service District Sewer Revenue Bonds,
Series 2013 A (United States Department of Agricultural)

Ladies and Gentlemen:

We have reviewed the sewer rates of Logan County Public Service District (the "Issuer"), as approved by the order of the Public Service Commission of West Virginia entered June 13, 2012, in Case No. 11-1808-PSD-CN, and the projected operating expenses and anticipated customer usage provided by E.L. Robinson Engineering Company, the consulting engineer of the Issuer. It is my opinion that such rates are sufficient (i) to provide for all operating expenses of the sewerage system of the Issuer (the "System"), and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Issuer's Sewer Revenue Bonds, Series 2013 A (United States Department of Agriculture) and the Prior Bonds.

It is further our opinion that (i) the Net Revenues for the fiscal year following the year in which the Series 2013 A Bonds are to be issued will be at least 120% of the average annual debt service requirements on the Prior Bonds and the Series 2013 A Bonds; and (ii) the Net Revenues actually derived from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of the Series 2013 A Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Series 2013 A Bonds, will not be less than 115% of the maximum debt service in any succeeding year on the Prior Bonds and the Series 2013 A Bonds.

Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Ordinance authorizing the Series 2013 A Bonds.

Very truly yours,

Michael D. Griffith, CPA, AFI
Griffith & Associates, PLLC

Michael D. Griffith, CPA, AFI
mgriffith@gcorpww.com

950 Little Coal River Road Alum Creek, WV 25003
Phone: (304) 756.3600 Facsimile: (304) 756.2911

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF NO LITIGATION

The undersigned hereby certifies that as of the date hereof, no controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale or delivery of the above-captioned Bonds (the "Bonds"), the acquisition and construction of the Project, the operation of the System, the receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds or any proceeds of Logan County Public Service District (the "Issuer") taken with respect to the authorization, issuance, sale or delivery of the Bonds, the pledge or application of the Net Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection of the Gross Revenues or the pledge of the Net Revenues or the pledge of the Net Revenues for payment of the Bonds.

All capitalized terms used herein shall have the same meaning set forth in the Bond Resolution, authorizing the Bonds, duly adopted by the Issuer on January 22, 2013.

WITNESS my signature on this 24th day of January, 2013.



Brian R. Abraham, Esquire
Attorney for Logan County Public Service District

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

RECEIPT FOR BONDS

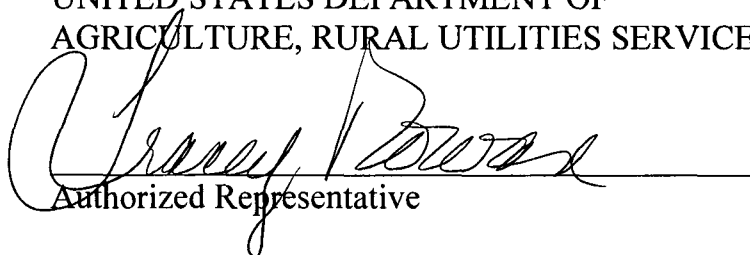
The undersigned authorized representative of the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), for and on behalf of the Government, hereby certifies as follows:

1. On the 24th day of January, 2013, the undersigned received for and on behalf of the Government, the Sewer Revenue Bonds, Series 2013 A (United States Department of Agriculture), (the "Bonds"), of Logan County Public Service District (the "Issuer"), dated January 24, 2013, issued in the form of one bond in the principal amount of \$1,512,000.00, and numbered AR-1. The Bonds bear interest at the rate of 1.875% per annum, payable in monthly installments on the amounts advanced thereunder, commencing 30 days following the date of delivery of the Bonds and continuing on the corresponding day of each month for the first 24 months after the date of the Bonds, and thereafter, on the corresponding day of each month in installments of principal and interest on the Bonds in the aggregate amount of \$4,642.00, except that the final installment on the Bonds shall be paid at the end of 40 years from the date of the Bonds in the sum of the unpaid principal and interest due on the date thereof. The Bonds represent the entire principal amount of the above-captioned bond issue.

2. At the time of such receipt of the Bonds, they had been executed by the Chairperson of the Issuer and attested by the Secretary of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Bonds.

WITNESS my signature on this 24th day of January, 2013.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
AGRICULTURE, RURAL UTILITIES SERVICE



Authorized Representative

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

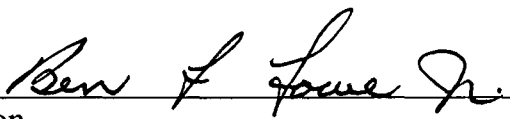
RECEIPT FOR BOND PROCEEDS

The undersigned Chairperson of Logan County Public Service District (the "Issuer"), for and on behalf of Issuer hereby certifies as follows:

On the 24th day of January, 2013, the Issuer received and hereby acknowledges receipt from the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), the sum of \$176,994.99 being the first advance on the \$1,512,000.00 Logan County Public Service District Sewer Bonds, Series 2013 A (United States Department of Agriculture), dated January 24, 2013 (the "Bonds"). The Issuer understands that the remaining proceeds of the Bonds will be advanced to the Issuer by the Government from time to time as construction progresses.

WITNESS my signature on this 24th day of January, 2013.

LOGAN COUNTY PUBLIC SERVICE DISTRICT


Chairperson

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2013 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

LOGAN BANK & TRUST COMPANY, Logan, West Virginia, hereby accepts appointment as Depository Bank for the Revenue Fund in connection with a Bond Resolution and a Supplemental Resolution adopted by Logan County Public Service District (the "Issuer") on January 22, 2013 (together, the "Resolution"), authorizing issuance of the Issuer's Sewer Revenue Bonds, Series 2013 A (United States Department of Agriculture), in the amount of \$1,512,000.00, dated January 24, 2013, and agrees to serve as Depository Bank for the Revenue Fund and Construction Fund, as set forth in the Resolution.

WITNESS my signature on this 24th day of January, 2013.

LOGAN BANK & TRUST COMPANY


Authorized Officer

WEST VIRGINIA MUNICIPAL BOND COMMISSION

3.9

NEW ISSUE REPORT FORM

900 Pennsylvania Avenue, Suite 1117, Charleston, WV 25302
(304) 558-3971

Date of Report: January 24, 2013

ISSUE: <u>Logan County Public Service District Sewer Revenue Bonds, Series 2013 A</u> (United States Department of Agriculture)			
ADDRESS: <u>41 Armory Road, Monaville, WV 25636</u>		COUNTY: <u>Logan</u>	
PURPOSE OF ISSUE: New Money <u>X</u> Refunding _____ Refunds issue(s) dated: _____			
ISSUE DATE: <u>January 24, 2013</u>		CLOSING DATE: <u>January 24, 2013</u>	
ISSUE AMOUNT: <u>\$1,512,000</u>		RATE: <u>1.875%</u>	
1st DEBT SERVICE DUE: <u>February 24, 2015</u>		1st PRINCIPAL DUE: <u>February 24, 2015</u>	
1st DEBT SERVICE AMOUNT: <u>\$ N/A</u>		PAYING AGENT: <u>None (District pays USDA directly)</u>	
BOND COUNSEL: <u>Jackson Kelly PLLC</u> Contact Person: <u>Samme L. Gee, Esquire</u> Phone: <u>(304) 340-1318</u>		UNDERWRITERS COUNSEL: _____ Contact Person: _____ Phone: _____	
CLOSING BANK: <u>Logan Bank & Trust Company</u> Contact Person: <u>Bart Willis</u> Phone: <u>(304) 752-1166</u>		ESCROW TRUSTEE: _____ Contact Person: _____ Phone: _____	
KNOWLEDGEABLE ISSUER CONTACT: Contact Person: <u>William Baisden</u> Position: <u>General Manager</u> Phone: <u>(304) 946-2641</u> E-Mail: <u>wb@lcpsd.com</u>		OTHER: <u>USDA, Rural Utilities Service</u> Contact Person: <u>Tracey Rowan</u> Function: <u>Area IV Director</u> Phone: <u>(304) 776-5298 ext. 116</u>	
DEPOSITS TO MBC AT CLOSE: _____ By _____ Wire _____ _____ Check _____		Accrued Interest: \$ _____ Capitalized Interest: \$ _____ Reserve Account: \$ _____ Other: _____ \$ _____	
REFUNDS & TRANSFERS BY MBC AT CLOSE: By _____ Wire _____ _____ Check _____ _____ IGT _____		To Escrow Trustee: \$ _____ To Issuer: \$ _____ To Cons.Invest.Fund \$ _____ To Other: _____ \$ _____	
NOTES: <u>Series 2013 A Bonds Reserve Account only set up with MBC. Debt service payments will be made directly by District to USDA.</u>			
FOR MUNICIPAL BOND COMMISSION USE ONLY: Documents Required: _____ Transfers Required: _____			



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0495
Fax: (304) 926-0463

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

September 12, 2012

William Baisden, General Manager
Logan County PSD
P.O. Box 506
Monaville, WV 25636

CERTIFIED RETURN RECEIPT REQUESTED

Re: WV/NPDES Permit Modification
WV0105171-A, Logan County

Dear Mr. Baisden:

This serves as Modification No. 1 of your existing WV/NPDES Water Pollution Control Permit No. WV0105171 issued the 24th day of January 2011.

After review and consideration of the information accompanying WV/NPDES Water Pollution Control Permit No. WV0105171 and after consideration of the information submitted with Permit Modification Application No. WV0105171-A, dated the 16th day of March 2012, and other relevant information, the subject Permit is hereby modified to incorporate the following:

1. The permittee may acquire, construct, install, operate and maintain an additional 32,000 linear feet of twelve (12) inch diameter or smaller of gravity sewer line; one sewage lift station and associated force main all related appurtenances with discharge into the existing Logan County Public Service District collection system for treatment by the existing wastewater treatment plant facility to serve approximately 400 additional customers in the communities of Ridgeview, Shamrock, Mt. Gay, Logan Heights, Cora, Camps 5 & 6, Crooked Creek and the surrounding area.
2. This permit modification shall, further, be subject to the terms and conditions of the Bureau for Public Health, Office of Environmental Health Services, Permit No. 18,981, dated the 21st day of February 2012.

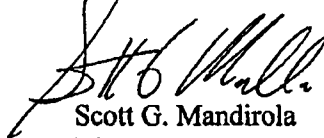
Promoting a healthy environment.

Logan County PSD
Page 2 of 2

This Modification in no way relieves the permittee of its obligation to comply with all terms and conditions of its WV/NPDES Permit No. WV0105171 and shall not constitute an affirmative defense in any enforcement action brought against the permittee.

All other terms and conditions of the subject WV/NPDES Water Pollution Control Permit shall remain unchanged and in effect. Should you have any questions, please contact Ryan K. McGlothen, P.E. of this office at 304-926-0499 extension 1092.

Sincerely,



Scott G. Mandirola
Director

SGM:rm

cc: E.E. Inspector
E.E. Inspector Supervisor
EPA Region 3

WATER OR WASTE SYSTEM GRANT AGREEMENT
UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE

THIS AGREEMENT dated _____ between

Logan County Public Service District

a public corporation organized and operating under _____

Chapter 16 Article 13A, West Virginia Code

(Authorizing Statute)

herein called "Grantee," and the United States of America acting through the Rural Utilities Service, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (sewer) system to serve the area under jurisdiction at an estimated cost of \$ 11,740,600 and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$ 3,012,000 of the development cost through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of \$ 3,012,000 has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$ 8,728,600 or 74.35% percent of said development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

As a condition of this grant agreement, the Grantee assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated into this agreement by reference, and such other statutory provisions as are specifically set forth herein.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 306 (a) of the Consolidated Farm and Rural Development Act the purpose only of defraying a part not to exceed 74.35% percent of the development costs, as defined by applicable Rural Utilities Service Instructions.

GRANTEE AGREES THAT GRANTEE WILL:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, whether for one or more classes

of service, adopted by resolution dated _____, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute any agreements required by Grantor which Grantee is legally authorized to execute. If any such agreement has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another agreement of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency. When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

[Revision 1, 04/17/1998]

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

All that real property associated with the Logan County Public Service District's Wastewater system.

L. Abide by the following conditions pertaining to equipment which is furnished by the Grantor or acquired wholly or in part with grant funds. Equipment means tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A Grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

[Revision 1, 04/17/1998]

1. Use of equipment.

(a) The Grantee shall use the equipment in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the equipment in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the Grantor.

(2) Activities sponsored by other Federal agencies.

(b) During the time that equipment is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the equipment was originally acquired. First preference for such other use shall be given to Grantor sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of equipment. When the Grantee no longer needs the equipment as provided in paragraph (a) above, the equipment may be used for other activities in accordance with the following standards:

- (a) Equipment with a current per unit fair market value of less than \$5,000. The Grantee may use the equipment for other activities without reimbursement to the Federal Government or sell the equipment and retain the proceeds.
- (b) Equipment with a current per unit fair market value of \$5,000 or more. The Grantee may retain the equipment for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value or proceeds from sale of the equipment. If the Grantee has no need for the equipment and the equipment has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the equipment exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

- (1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the equipment and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share ten percent of the proceeds, for Grantee's selling and handling expenses.
- (2) If the Grantee is instructed to ship the equipment elsewhere the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.
- (3) If the Grantee is instructed to otherwise dispose of the equipment, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for equipment shall also include:

- (a) Records which accurately provide for: a description of the equipment; manufacturer's serial number or other identification number; acquisition date and cost; source of the equipment; percentage (at the end of budget year) of Federal participation in the cost of the project for which the equipment was acquired; location, use and condition of the equipment and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.
- (b) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years to verify the existence, current utilization, and continued need for the equipment.

- (c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented.
- (d) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.
- (e) Proper sales procedures shall be established for unneeded equipment which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described equipment (use continuation sheets as necessary).

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.
2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.
4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photo copies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in accordance with Grantor regulations to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentality's of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland ``Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. To include in all contracts in excess of \$100,000 a provision that the contractor agrees to comply with all the requirements of the Clean Air Act (42 U.S.C. §7414) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. In so doing the Contractor further agrees:

[Revision 1, 11/20/1997]

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award.

[Revision 1, 11/20/97]

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term ``facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed \$8,728,600.00, which it will advance to Grantee to meet not to exceed 74.35% percent of the project development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

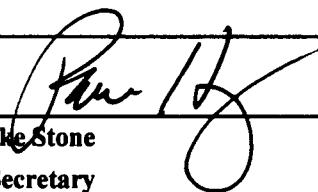
In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

Chairman


and attested and its corporate seal affixed by its duly authorized

Secretary

Attest:

By: 


Mike Stone
(Title) Secretary

By: 

Ben Lowe Jr.
(Title) Chairman

UNITED STATES OF AMERICA

RURAL UTILITIES SERVICE

By: 

(Title)



State of West Virginia
Joe Manchin III
Governor

Office of the Governor
State Capitol
1900 Kanawha Boulevard, East
Charleston, WV 25305

Telephone: (304) 558-2000
Toll Free: 1-888-438-2731
FAX: (304) 342-7025
www.wv.gov.org

October 26, 2010

The Honorable Arthur E. Kirkendoll
President
Logan County Commission
300 Stratton Street
Logan, West Virginia 25601

Dear Commissioner Kirkendoll:

Thank you for your application to the Small Cities Block Grant Program to extend wastewater service to the communities of Upper Crooked Creek, Lower Copperas Mine Fork, and surrounding areas in Logan County. Your request has been approved in the amount of \$1,500,000.

In order to effectively use the limited dollars available, I hereby commit \$400,000 from our fiscal year 2010 allocation that will immediately be available to you. The remaining \$1,100,000 necessary to complete the project will be evaluated and committed in a future year's allocation, based on your ability to proceed forward with this project. I encourage you to expedite this project and reach its completion as quickly as possible. The West Virginia Development Office (WVDO) reserves the right to withdraw these funds if your project does not proceed on schedule. It will be at the discretion of the WVDO whether or not to replace these funds with a letter of intent for consideration from future allocations. Please be advised that a letter of intent is contingent upon the availability of federal funds.

Please contact Mr. Michael Browning of the WVDO, at (304) 558-2234, extension 52007, to complete the necessary contract in order to proceed with your project.

I am pleased to assist with these improvements for the citizens of Logan County.

With warmest regards,

Joe Manchin III
Governor

JM:mbm

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

07/20/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Bill Bailey Insurance Agency 701 Highland Avenue P. O. Box 246 Williamstown, WV 26187 INSURED Logan County PSD P.O. Box 506 Logan, WV 25601		CONTACT NAME: Renee Shotwell PHONE (A/C, No, Ext): 304.375.4900 E-MAIL: rshotwell@bb-ins.com ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: American Alternative Insurance INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:		FAX (A/C, No): 304.375.2162 NAIC #
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COVERAGES **CERTIFICATE NUMBER:** CSX Transportation 12-13 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PFR POLICY PRO JECT LOC	X	GPPA-PF-6054190-01	03/29/2012	03/29/2013	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS		GPPA-PF-6054190-01	03/29/2012	03/29/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION \$		GPPA-PF-6054190-01	03/29/2012	03/29/2013	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> N/A If yes, describe under DESCRIPTION OF OPERATIONS below					WE STATE TORY LIMITS DTH ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Certificate holder is listed as Additional Insured.

CERTIFICATE HOLDER

WV Water Development Authority
180 Association Drive
Charleston, WV 25311

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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January 24, 2013

Logan County Public Service District
Monaville, West Virginia 25636

United States Department of Agriculture
Rural Utilities Service
Cross Lanes, West Virginia 25313

Re: Logan County Public Service District Sewer Revenue Bonds,
Series 2013 A (United States Department of Agriculture)

Ladies and Gentlemen:

We have served as bond counsel to Logan County Public Service District (the "Issuer") in connection with the issuance of its Sewer Revenue Bonds, Series 2013 A (United States Department of Agriculture), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the issuance of the Bonds. The Bonds are issued in the principle amount of \$1,512,000.00, in the form of one bond and bear interest from the date hereof, on the amount advanced hereunder, at the rate of 1.875% per annum.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A, of the Code of West Virginia, 1931, as amended (the "Act"), and have been authorized by a Bond Resolution duly adopted by the Issuer on January 22, 2013, as supplemented by a Supplemental Resolution duly adopted by the Issuer on January 22, 2013 (together, the "Resolution"). The Bonds are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of new public sewer facilities of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion, under existing law, as follows:

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Resolution and to issue and seal the Bonds, all under the Act and other applicable provisions of law.

2. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bonds. The Resolution constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with the terms hereof.

3. The Bonds have been duly authorized, issued, executed and delivered by the Issuer and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and a pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Prior Bonds, all in accordance with the terms of the Bonds and the Resolution.

4. Under the Act, the Bonds and the interest thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

5. The Bonds have not been issued on the basis that the interest thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

No opinion is given herein as to the effect upon the enforceability of the Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or the exercise of judicial discretion or principles of equity in appropriate cases.

We have examined the executed Bond number AR-1 and in our opinion, the form of said Bond and its execution are regular and proper.

Very truly yours,



ABRAHAM & ILDERTON, PLLC

ATTORNEYS AT LAW

115 Prosperity Lane

Logan, WV 25601

January 24, 2013

Logan County Public Service District
Monaville, West Virginia 25636

United States Department of Agriculture
Rural Utilities Service
Cross Lanes, West Virginia 25313

Jackson Kelly PLLC
Charleston, West Virginia 25301

Re: Logan County Public Service District Sewer Revenue Bonds,
Series 2013 A (United States Department of Agriculture)

Ladies and Gentlemen:

I am counsel to Logan County Public Service District (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Jackson Kelly PLLC, as bond counsel, relating to the above-captioned bonds of the Issuer (the "Bonds"), the letter of conditions for the Series 2013 A, dated April 10, 2010, as amended, from the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), a Bond Resolution duly adopted by the Public Service Board of the Issuer (the "Board") on January 22, 2013, as supplemented by a Supplemental Resolution duly adopted on January 22, 2013 (together, the "Resolution"), order(s) of the County Commission of Logan County related to the Issuer and the appointment of members of the Board, and other documents relating to the Bonds and the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein.

I am of the opinion that:

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System and to adopt the Resolution, all under the Act and other applicable provisions of law.

2. The members and officers of the Board have been duly and properly appointed and elected, have taken the requisite oaths and are thereby authorized to act on behalf of the Issuer in their respective capacities.

3. The Resolution has been duly adopted by the Board and is in full force and effect.

4. The execution and delivery of the Bonds and the consummation of the transaction contemplated by the Bonds and the Resolution, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any resolution, agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject.

5. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates, registrations and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for the use of the System, including, without limitation, all requisite permits, approvals, orders and certificates from the DEP, the Counsel and the Public Service Commission of West Virginia (the "PSC"), and the Issuer has taken any other action required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges. The Issuer has received the final order of the PSC entered on July 3, 2012, in Case No. 11-1808-PSD-CN, granting the Issuer a certificate of public convenience and necessity for the Project and approving the rates for the System and the financing for the Project. The time for appeal of the PSC order has expired prior to the date hereof without any appeal having been filed. Such order remains in full force and effect.

6. The Issuer has duly published the required notice with respect to, among other things, the amount of the Bonds to be issued, the interest rate and terms of the Bonds, the Project to be constructed, the costs of the Project, the anticipated user rates and charges and the date that a formal application for a certificate of public convenience and necessity is to be filed with the PSC in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia, 1931, as amended, and has duly complied with the provisions thereof.

Logan County Public Service District
United States Department of Agriculture
Rural Utilities Service
Jackson Kelly PLLC
January 24, 2013
Page 3

7. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the Bonds, the Resolution, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds, the collection of Gross Revenues or the pledge of the Net Revenues for the payment of the Bonds.

8. All successful bidders have made the required provision for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. Based upon my review of the contracts, surety bonds and the policies or other evidence of insurance coverage in connection with the Project, I am of the opinion that such surety bonds and policies (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interests of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act and the Resolution; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,

A handwritten signature in black ink, appearing to be "J. Kelly", written over a horizontal line.

ABRAHAM & ILDERTON, PLLC

ATTORNEYS AT LAW

115 Prosperity Lane
Logan, WV 25601

January 24, 2013

USDA – Rural Development
418 Goff Mountain Road
Room 113
Cross Lanes, WV 25313
Attn: Tracy Rowan

Dear Mrs. Rowan:

Please accept this letter as the narrative opinion required by Item No. 8-C of your letter of conditions for the above referenced project dated April 10, 2010.

I hereby certify that all necessary permits, certifications and other items legally necessary have been obtained for the above referenced project.

I hereby certify that the rights-of-way and easement agreements needed to be obtained prior to construction have been secured. I hereby certify that the balance of the right-of-ways and easements agreements will be secured prior to closing.

I hereby certify that the following condemnation proceedings have been initiated and Orders of Entry have been obtained for immediate entry upon said properties: See Attached Schedule A.

I hereby certify that all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and WV State Code Chapter 54 have been met with all acquisitions.

Sincerely,



Brian R. Abraham, Esquire
Abraham & Ilderton, PLLC

BRA:kjc

SCHEDULE A

Name	Civil Action No.	Deed Book No.	Page No.
Unknown Owner – Easement No. EL1-1	13-C-15	611	767
Hood, Thomas & Bertha	12-C-275	611	727
Unknown Owner – Easement No. EL1-5	13-C-17	611	711
Jones, J.W. & Ethel, Earl G. Jones	12-C-273	611	724
Jones, J.W. & Ethel	12-C-274	611	721
Muncey, George D. & Wooten, Judith	12-C-278	609	971
Vinson, Eugene & Turner, Yolanda	12-C-276	609	968
Land Recovery Management Company	13-C-14	611	760
Turner, Welton J., Jr.	12-C-277	609	1083
Drummer, Sandra	12-C-286	611	736
Jackson, Darlene Gaiter	12-C-272	611	715
Gaiter, Issadella & Bland	12-C-271	611	718
Hall, Bill	12-C-280	609	977
Unknown Owner – Easement EL4B-1	13-C-18	611	763
Hawkins, Lillian- Waddell, Joe Ira & Holloway, Michael Stephen	12-C-281	610	157
Hawkins, Fleming & Lillian	12-C-282	611	733
Goodman, James	12-C-287	609	998
Adams, Eugenia & Gollihue, Stephanie R.	12-C-270	611	712
Logan Healthcare Partner, LLC	12-C-288	609	1001
Bass, Eddie, Sr. & Joyce L. & Forest, Dorothy	12-C-285	609	992
Alexander, Eddie E. & Hazel	12-C-283	609	986
Elkins, Donald D. & Candice	12-C-284	609	989
Page, William	12-C-266	609	938
/Burns, Mary Jane	12-C-264	611	700
McDonald, Harold Jennings	13-C-12	611	754

Farris, Bobby Joe or Mary	12-C-265	611	703
McDonald, Leva Ferguson	12-C-268	611	694
Herrera, Debra	12-C-279	609	974
Fortuna, Michael	13-C-11	611	751
Whitman, Scott & Ruby	13-C-10	611	748
Stamper, Dottie Lou	12-C-267	611	706
Board of Education	13-C-9	611	745
Beckett, James M.	13-C-8	611	742

SCHEDULE B

LCPSD - PHASE IIIA SEWER - EASEMENT INDEX - CONTRACT 1

Easement No.	Plan Sheet No.	District Name	Tax Map No.	Parcel No.	Deed Book No.	Deed Book Page	Owner	Deed Book No.	Deed Book Page	Status	Remarks
ELI-1	12	ISLAND CREEK	66	53	531	546	UNKNOWN OWNER	611	767	01/11/13	
ELI-2	12	ISLAND CREEK	66	33	531	546	TRAMMELL, FOREST & MARGUERITE	610	161	06/18/12	CIVIL ACTION NO. 13-C-15
ELI-3	12	ISLAND CREEK	66	34.1	516	631	TRAMMELL, FOREST & MARGUERITE	610	165	06/18/12	
ELI-4	14	ISLAND CREEK	66	47	177	164	HOOD, THOMAS & BERTHA	611	777	10/01/12	CIVIL ACTION NO. 13-C-275
ELI-5	14	ISLAND CREEK	66	41	248	388	ANNIE, JESSE RUTH	610	408	02/20/12	
ELI-6	14	ISLAND CREEK	66	36	186	360	UNKNOWN OWNER	611	711	01/11/13	CIVIL ACTION NO. 13-C-17
ELI-7	14	ISLAND CREEK	66	35	212	294	JONES, J W & ETHEL	611	724	10/01/12	CIVIL ACTION NO. 13-C-273
ELI-8	14	ISLAND CREEK	66	145	W854	408	JONES, J W & ETHEL	609	921	10/01/12	CIVIL ACTION NO. 13-C-274
ELI-9	14	ISLAND CREEK	66	136	397	736	MAUNCEY, GEORGE D & LUDWIG, WOOTEN	610	412	10/01/12	CIVIL ACTION NO. 13-C-278
ELI-10	16	ISLAND CREEK	68	133 & 135	389	63	ROSS, EMORY & BARBARA	610	416	02/22/12	
ELI-11	16	ISLAND CREEK	68	131 & 132	564	610	ROSS, EMORY & BARBARA	609	968	10/01/12	
ELI-12	16	ISLAND CREEK	68	127, 128, 129 & 130	523	180	VANWATER, BRENDA	610	436	02/27/12	CIVIL ACTION NO. 13-C-276
ELI-13	16	ISLAND CREEK	68	126	561	396	VANSON, CRAIG E.	610	432	04/09/12	
ELI-14	16	ISLAND CREEK	68	125	308	44	EVANS, CHRISTINE & LUCILLE	610	440	02/22/12	
ELI-15	16	ISLAND CREEK	68	124	537	791	VANWATER, LESLIE J. & ROSS, BARBARA S.	610	428	03/20/12	
ELI-16	16	ISLAND CREEK	68	124.1	477	283	BRENNAN, DENNY JAMES	610	424	03/20/12	
ELI-17	16	ISLAND CREEK	68	123	595	1166	BRENNAN, DENNY JAMES	610	420	02/23/12	
ELI-18	16	ISLAND CREEK	68	123.1	595	1168	ROSS, EMORY RAY - VANWATER, BRENDA KAY - ROSS, DEAN -	610	404	02/23/12	
ELI-19	16	ISLAND CREEK	68	122	228	166	ROSS, DALE	611	760	01/10/13	CIVIL ACTION NO. 13-C-14
ELI-20	16	ISLAND CREEK	68	120	431	119	LAND RECOVERY MANAGEMENT COMPANY	610	1083	03/20/12	
ELI-21	16	ISLAND CREEK	68	118	276	545	BALL, CURTIS & SARAH	610	396	06/13/12	CIVIL ACTION NO. 13-C-277
ELI-22	18	ISLAND CREEK	68	117	563	244	TURNER, WELTON J. JR.	610	392	06/13/12	
ELI-23	18	ISLAND CREEK	68	88	337	341	HAMLETT, ETHEL	610	373	09/28/12	
ELI-24	12	ISLAND CREEK	66	34	607	513	MURPHY, ETHEL	610	368	09/28/12	
ELI-25	12	ISLAND CREEK	66	48	516	569	PATRICK, SHERY	610	359	06/18/12	CIVIL ACTION NO. 13-C-286
ELI-26	12	ISLAND CREEK	66	47	227	105	GAFFER, JACOB	611	718	10/01/12	
ELI-27	12	ISLAND CREEK	66	45	542	1006	GATTON, DARLENE GATTON	611	715	10/01/12	CIVIL ACTION NO. 13-C-272
ELI-28	12	ISLAND CREEK	66	44 & 44.1	591	1006	GATTON, JACOB	610	384	02/27/12	
ELI-29	14	ISLAND CREEK	68	149	312	306	OLENNOWSKI, MAURICE A. MAAT	610	376	02/20/12	
ELI-30	14	ISLAND CREEK	68	150 & 150.1	499	119	COBBETT, MELISSA	610	368	02/20/12	
ELI-31	14	ISLAND CREEK	68	151	514	470	HENRIET, RAYMOND & PATRICIA	610	372	02/20/12	
ELI-32	5	ISLAND CREEK	43	73 & 79	523	614	HENRIET, RAYMOND & PATRICIA	609	977	10/01/12	CIVIL ACTION NO. 13-C-280
ELI-33							HALL, BILL	611	763	01/11/13	CIVIL ACTION NO. 13-C-18
ELI-34							UNKNOWN OWNER				

ICPSD - PHASE IIIA SEWER - EASEMENT INDEX - CONTRACT 2

Easement No.	Plan Sheet No.	District Name	Tax Map No.	Parcel	Deed Book No.	Deed Book Page	Owner	Deed Book No.	Deed Book Page	Status	Remarks
EL2-41	18	ISLAND CREEK	68	114	520	203	HORTON, ANNA RUTH	610	157	08/15/12	
EL2-40	18	ISLAND CREEK	68	113	480	382	HAWKINS, JULIAN-WADELL FOR IRA & HOLLOWAY, MICHAEL STEPHEN C/O JOE WADELL	611	730	10/01/12	CIVIL ACTION NO. 12-C-281
EL2-39	18	ISLAND CREEK	68	112	448	492	HAWKINS, FLEMING & JULIAN C/O MICHAEL HOLLOWAY	611	733	10/01/12	CIVIL ACTION NO. 12-C-282
EL2-38	23	ISLAND CREEK	70	8	571	49	LOGAN COUNTY COMMISSION	606	704	02/06/12	
EL2-37	23	ISLAND CREEK	70	6.1	571	243	LOGAN COUNTY COMMISSION	606	712	02/06/12	
EL2-36	23	ISLAND CREEK	70	6.2	571	250	LOGAN COUNTY COMMISSION	606	708	02/06/12	
EL2-35	23	ISLAND CREEK	70	5	489	477	SMITH, DONOTHY J & CHARLES R	610	185	06/19/12	
EL2-34	23	ISLAND CREEK	70	4.3	328	384	GRIFFIN, LEAN WILLIS JR & BETTY LEE	610	356	03/20/12	
EL2-33	23	ISLAND CREEK	70	4	582	515	GOODMAN, JAMES	609	998	10/01/12	CIVIL ACTION NO. 12-C-287
EL2-32	23	ISLAND CREEK	70	4.1	600	889	NEACE, TARA LYNN	610	344	03/21/12	
EL2-31	23	ISLAND CREEK	70	4	583	1091	DEER, SARAH	610	348	03/21/12	
EL2-30	23	ISLAND CREEK	70	3	603	791	MESSEY, JENNIFER	610	328	03/20/12	
EL2-29	23	ISLAND CREEK	70	2	377	533	ADAMS, DONALD CHARLES & SUE	610	337	03/20/12	
EL2-28	29	ISLAND CREEK	155A	14	591	414	ADAMS, EUGENIA & GOLWINE, STEPHANIE R	612	712	10/01/12	CIVIL ACTION NO. 12-C-270
EL2-27	29	ISLAND CREEK	155	85	569	693	LOGAN HEALTHCARE PARTNERS, LLC GERBAULT VANNOTE	613	739	10/01/12	
EL2-26	31	ISLAND CREEK	10	219	463	458	LOGAN HEALTHCARE PARTNERS, LLC GERBAULT VANNOTE	609	1001	10/01/12	CIVIL ACTION NO. 12-C-268
EL2-25	31	ISLAND CREEK	10	218	463	458	ADAMS, WILLIAM A DONALD	611	757	01/10/13	
EL2A-1	18	ISLAND CREEK	70	59	537	506	UNKNOWN OWNER	611	755	01/11/13	
EL2A1-1	18	ISLAND CREEK	70	60	562	207	HILL, EARNESTINE & WINDMAGN M JR	610	336	03/21/12	
EL2A1-2	18	ISLAND CREEK	70	61	562	207	HILL, ANTHONY & CARMEN	610	340	03/26/12	
EL2A1-3	18	ISLAND CREEK	70	25, 26 & 119	414	548	BASS, EDDIE SR & VOICE, B DONOTHY FOREST	609	992	10/01/12	CIVIL ACTION NO. 12-C-285
EL2B1-1	23	ISLAND CREEK	70	116	272	257	STIDHAM, IRENE	610	304	06/24/12	
EL2B1-2	23	ISLAND CREEK	70	32	500	658	STIDHAM, GREGORY D.	610	308	03/21/12	
EL2B1-3	23	ISLAND CREEK	70	33 & 47	538	287	STAPLETON, LANNY & TANNY	610	312	03/22/12	
EL2B2-1	23	ISLAND CREEK	70	46	291	227	HILL, ERNESTINE GARDNER	610	316	03/22/12	
EL2B2-2	23	ISLAND CREEK	70	47	477	110	ROBERTS, PATRICIA L.	610	320	03/22/12	
EL2B2-3	23	ISLAND CREEK	70	45	248	311	ALEXANDER, EDDIE & HAZEL	609	986	10/01/12	
EL2B2-4	23	ISLAND CREEK	70	54	424	75	JERRIE, DONNY & VICIE	610	324	03/21/12	CIVIL ACTION NO. 12-C-283
EL2B2-5	23	ISLAND CREEK	70	57	579	831	HOON, PAUL E.	610	278	03/21/12	
EL2B2-6	23	ISLAND CREEK	70	56	600	1087	MATTHEWS, ANTONIO	610	280	03/26/12	
EL2B2-7	23	ISLAND CREEK	70	83	548	417	KENNEDY, VIRGINIA & MARION	610	284	03/27/12	
EL2B2-8	23	ISLAND CREEK	70	84	542	95	KENNEDY, VIRGINIA	610	288	03/27/12	
EL2B2-9	23	ISLAND CREEK	70	84.1	529	461	RENNEDY, MARION A SR & VIRGINIA	610	292	03/27/12	
EL2B2-10	23	ISLAND CREEK	70	82	605	512	SPRADLIN, MARION & LAMBER	610	296	04/27/12	
EL2B2-11	23	ISLAND CREEK	70	82	424	149	LANTHORNE, BARBARA	610	300	03/26/12	
EL2C-1	23 & 27	ISLAND CREEK	155	54	573	252	RICE & RICE SALES INC.	610	448	03/26/12	
EL2C-2	29	ISLAND CREEK	155A	8	472	706	BROWN, RALPH EDWARD JR & TERRE LEE	610	444	04/27/12	
EL2C-3	29	ISLAND CREEK	155A	6	588	207	BROWN, RICHARD T. & DEAN	610	457	03/27/12	
EL2C-4	29	ISLAND CREEK	155A	5	541	231	LOWES, GUY A JR & CYNTHIA LOONLEY	610	460	03/28/12	
EL2C-5	29	ISLAND CREEK	155A	4	517	768	O'Rourke, RONALD OR KAREN	610	464	03/28/12	
EL2C-6	31	ISLAND CREEK	155	90	605	414	HILL, WINDMAGN M JR	610	456	03/28/12	
EL2C-7	31	ISLAND CREEK	10	68	589	774	BRADLEY, JEANNE LOWE	610	468	03/30/12	
EL2C-8	31	ISLAND CREEK	10	74	597	382	NELSON, CAROLYN -NAILLUS, MARY - BURGAMER, CHARLES	609	989	10/01/12	
EL2C-9	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	CIVIL ACTION NO. 12-C-284
EL2C-10	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	CIVIL ACTION NO. 12-C-285
EL2C-11	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-12	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-13	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-14	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-15	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-16	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-17	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-18	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-19	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-20	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-21	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-22	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-23	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-24	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-25	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-26	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-27	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-28	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-29	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-30	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-31	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-32	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-33	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-34	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-35	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-36	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-37	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-38	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-39	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-40	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-41	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-42	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-43	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-44	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-45	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-46	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-47	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-48	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-49	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-50	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-51	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-52	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-53	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-54	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-55	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-56	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-57	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-58	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-59	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-60	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-61	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-62	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-63	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-64	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-65	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-66	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-67	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-68	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-69	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-70	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-71	31	ISLAND CREEK	10	74	597	382	ELTON, DONALD D & CANDICE	609	938	10/01/12	
EL2C-72											

LCPSD - PHASE IIIA SEWER - EASEMENT INDEX - CONTRACT 3

Easement No.	Plan Sheet No.	District Name	Tax Map No.	Parcel No.	Deed Book No.	Deed Book Page	Owner	Deed Book No.	Deed Book Page	Status	Remarks
EL1-1	37	GUAYAN	157	48	318	85	BERNSTEIN, EDWARD E. DONALD	610	177	06/18/12	
EL1-2	37	GUAYAN	157	3.1	425	142	FAIR, JAMES R. & SANDRA A.	610	192	06/01/12	
EL1-3	37	GUAYAN	157	4	259	338	JARRELL, JACIE & DOBBS	610	196	05/09/12	
EL1-4	37	GUAYAN	157	5.2	505	50	JARRELL, DOBBS	610	204	05/09/12	
EL1-5	37 & 38	GUAYAN	157	5	600	326	EPFENHART, BLAISE HOLCOMB	610	208	05/31/12	
EL1-6	38	GUAYAN	157	5.1 & 6.1	520	389	BAISOR, L. DAVID & SHEILA	610	212	04/24/12	
EL1-7	38	GUAYAN	157	6	539	500	BURNS, MARY JANE OR	611	700	10/01/12	CIVIL ACTION NO. 12-C-264
EL1-8	38	GUAYAN	157	32	430	416	MCDONALD, HAROLD JENNINGS				
	38	GUAYAN	157	33	430	416	MCDONALD, HAROLD JENNINGS	611	734	01/10/13	CIVIL ACTION NO. 13-C-12
	38	GUAYAN	157	34	430	416	MCDONALD, HAROLD JENNINGS				
EL1-9	38	GUAYAN	157	34	592	232	FARRIS, ROBERT JOE OR MARY	611	703	10/01/12	CIVIL ACTION NO. 13-C-265
EL1-10	38 & 40	GUAYAN	157	34	570	718	PAYNE, BILLY J. & SUE BEVINS	610	216	04/18/12	
EL1-11	40	GUAYAN	157	34	394	695	MCDONALD, LENA FERUGSON	611	694	10/01/12	CIVIL ACTION NO. 12-C-268
EL1-11A	40	GUAYAN	157	34.3	593	1103	VERMATEL, LINDA K.	610	153	04/18/12	
EL1-12	41 & 42	GUAYAN	157	37.1	349	31	WATKINS, WILLIAM J.	610	220	04/13/12	
EL1-13	42	GUAYAN	157	38	582	405	WORKMAN, RICHARD L. & ELIZABETH	610	149	04/17/12	
EL1-14	42	GUAYAN	157	39	219	69	ADAMS, PIERRECH & GEROLDSON	610	224	04/11/12	
EL1-15	42	GUAYAN	157	41	310	97	ADAMS, RICHARD D. & SANDRA LEE	610	228	04/11/12	
EL1-17	43	GUAYAN	157	50	448	366	WORKMAN, CLINTIS E. & BARBARA M.	610	232	04/10/12	
EL1-18	43	GUAYAN	157	53	605	180	ADAMS, HAROLD ANDREW & MILEY LAY	610	236	04/10/12	
EL1-19	43	GUAYAN	157	54 & 55	595	823	HEBERER, DEBRA	609	974	10/01/12	CIVIL ACTION NO. 12-C-279
EL1-20	43	GUAYAN	157	56	597	876	PORTUNA, MICHAEL	611	751	01/10/13	CIVIL ACTION NO. 13-C-11
EL1-21	43	GUAYAN	157	57	24	253	ADAMS, LINDA L.	610	240	04/09/12	
		GUAYAN	157	58	W824	253	TRENT, EDNA	610	244	04/09/12	
EL1-22	43	GUAYAN	157	60	587	150	BEVINS, H. MICHAEL	610	248	04/05/12	
EL1-23	37	GUAYAN	157	3	332	529	GLEASON, MONA J.	610	181	06/18/12	
EL1-24	38	GUAYAN	157	10	7865	283	WHITMAN, SCOTT & MURRY	611	748	01/10/13	CIVIL ACTION NO. 13-C-10
EL1-25	39	GUAYAN	157	10.2	475	1	ADAMS, RANDALL & ROSEMARY	610	253	04/24/12	
EL1-26	38	GUAYAN	157	8	412	271	ADAMS, RANDALL & ROSEMARY	610	257	04/24/12	
EL1-27	38	GUAYAN	157	7	494	264	WORKMAN, DANIA WYATT	610	261	04/24/12	
EL1-28	40	GUAYAN	157	12 & 13	573	432	WORKMAN, CLINTIS B.	610	265	04/18/12	
EL1-29	40	GUAYAN	157	13.1 & 14	496	772	MILLING, DANIEL J. & MARCO G.	610	269	04/18/12	
EL1-30	40	GUAYAN	157	12	403	41	EPFENHART, WILLIAM & ROSE	610	272	04/18/12	
EL1-31	42	GUAYAN	157	28	531	183	STANDER, DOOTIE LEO	611	706	10/01/12	CIVIL ACTION NO. 12-C-287
EL1-32	42	GUAYAN	157	29.1 & 29.4	587	150	BEVINS, MICHAEL H.	610	248	04/05/12	
EL1-33	44	GUAYAN	157	29.9	587	150	BEVINS, MICHAEL H.	610	248	04/05/12	
EL1-34	46-47	GUAYAN	31	156			BOARD OF EDUCATION				
EL1-35	46-47	GUAYAN	31	157			BOARD OF EDUCATION	611	745	01/10/13	CIVIL ACTION NO. 13-C-9
EL1-36	46-47	GUAYAN	31	158			BOARD OF EDUCATION				
EL1-37	46-47	GUAYAN	31	159			BOARD OF ED. S.N. J.				
EL1-38	46-47	GUAYAN	31	160			BOARD OF EDUCATION				
EL1-39	46-47	GUAYAN	31	162			BOARD OF EDUCATION				
EL1-40	47	GUAYAN	31	161			BECKETT, JAMES M.	611	742	01/10/13	CIVIL ACTION NO. 13-C-8
EL1-41	48-49	GUAYAN	159	29			LOGAN, THE CITY OF	611	690	01/10/13	

Form RD 1927-10
(Rev. 7-98)

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
FARM SERVICE AGENCY

FORM APPROVED
OMB NO. 0575-0147

FINAL TITLE OPINION


LOAN APPLICANT Logan County Public Service District	ADDRESS OR PROPERTY COVERED BY THIS OPINION IIIA Sewer Project	
APPLICANT FOR TITLE EXAMINATION Logan County Public Service District	COUNTY Logan	STATE WV

- I. I have examined title to the property described in the security instrument described in paragraph II. B. below. My examination covered the period from the time of termination of title search covered by my Preliminary Title Opinion on Form RD 1927-9; or the time of recordation of the initial loan security instrument if this opinion covers land already owned by the loan applicant in a subsequent loan case, to January 24, 2013 at 9:00 a.m. (including the time of filing the current security instrument).
(Date) p.m.
- II. Based on said title examination, my preliminary title examination if any, and any additional information concerning the title which has come to my attention, it is my opinion that:
- A. Good and marketable title, in accordance with title examination standards prevailing in the area, to said property (real estate and any water rights offered as security) is now vested in Logan County Public Service District
as
(Joint tenants, tenants by the entirety, etc.)
- B. The United States of America holds a valid Statutory First lien on said property as required by Rural
(Priority) (Mortgage, etc.)
Development or the Farm Service Agency, or their successor (Agency), which lien was filed for record on N/A,
(Date)
, at _____ a.m. and is recorded in _____
p.m. (Book, page, and office)
- C. Said property and lien are subject only to encumbrances, reservations, exceptions, and defects which were approved by written administrative waivers of the Agency attached hereto or to my Preliminary Title Opinion.
- III. If a water right is involved and is not covered by the current security instrument, it is subject only to the encumbrances, reservations, exceptions, and defects set forth in said administrative waivers and was made available as security in the following manner (Water stock would normally be reissued in the names of said land owners and the United States of America and delivered to the Agency Official at the time of loan closing):
- None.

- IV. The term "encumbrances, reservations, exceptions, and defects" means all matters which would prevent the United States from obtaining the required lien on the property identified in paragraph I, including but not limited to (a) mortgages, deeds of trust, and vendors', mechanics', materialmen's, and all other liens, including any provisions thereof for future advances which could take priority over the said lien to the United States, (b) Federal, State, and local taxes, including county, school, improvement, water, drainage, sewer, inheritance, personal property, and income, (c) State and Federal bankruptcy, insolvency, receivership, and probate proceedings, (d) judgments and pending suits, in State and Federal courts, (e) recorded covenants; conditions; restrictions; reservations; liens; encumbrances; easements; rights-of-way; leases; mineral, oil, gas, and geothermal rights (regardless of the right of surface entry); timber rights; water rights; pending court proceedings and other matters of record which affect the title of the property or the ability of the buyer or seller to convey or accept title.
- V. This opinion is issued expressly for the benefit of the above-named applicant for title examination and the United States of America acting through the United States Department of Agriculture Agency which provided the assistance, and I assume liability to each hereunder.

01-24-2013

(Date)


(Attorney's signature)

115 Prosperity Lane
Logan, WV 25601

(Address, include ZIP Code)

Attachments

OPINION OF COUNSEL RELATIVE TO RIGHTS-OF-WAY

Date January 24, 2013

Dear Sir:

I have reviewed the action taken by Logan County Public Service District (hereinafter called the "Corporation") in obtaining a right-of-way for the construction, operation, and maintenance of the facilities to be installed, repaired, or enlarged with the proceeds of a loan made or insured by, and/or a grant from Rural Development to the Corporation. I have examined the right-of-way instruments, permits, or licenses obtained from landowners, public bodies, and public utilities and made such searches of the public records necessary to determine the legal sufficiency of the instruments covered by the "Right-of-way

Certificate," executed by the Corporation on January 24, 20 13. I also have examined the "Right-of-way Map" to determine whether continuous and adequate land and rights-of-way are owned or have been acquired by the instruments covered in the "Right-of-way Certificate".

Based on the foregoing examination, and to the best of my knowledge, information, and belief, I am of the opinion that:

- A. The legal instruments by which the Corporation has acquired said rights-of-way (a) are in appropriate and due legal form and adequately confer upon the Corporation the necessary rights-of-way for the construction, operation, and maintenance of its facilities in their present or proposed location, and such omissions or defects as may exist will in no substantial way or manner endanger the value or operation of the facilities, and (b) have each been properly recorded in the appropriate public land records of each County in which any of the land affected thereby is situated. Such consents, releases, or subordinations from lienholders recommended by me or required by Rural Development have been obtained.
- B. The legal instruments referred to above give unto the Corporation a continuous and adequate right-of-way to permit the construction, operation, and maintenance of the Corporation's facilities except as below noted.
- C. Exceptions:
None.

Very truly yours,



Brian R. Abraham, Esq.

Attorney for _____

Logan County Public Service District

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to U.S. Department of Agriculture, Clearance Officer STOP 7602, 1400 Independence Avenue, S.W., Washington, D.C. 20250-7602. Please DO NOT RETURN this form to this address. Forward to the local USDA office only. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.